



Municipalities

Newfoundland and Labrador

Our people • Our place • Our potential

Community Cooperation Regional Government Papers

The Umbrella of Protection:

Regional Government as the protector and promotor of municipal strength and autonomy in Newfoundland and Labrador.

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and autonomy in Newfoundland and Labrador.

A Municipalities Newfoundland and Labrador
Community Cooperation Project

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INTRODUCTION

Survival in fact is about the connections between things.

Edward Said, *Culture and Imperialism*

In volume 1 and 2 of this study, the history of municipal government and its current condition were examined. What both volumes noted was that municipalities have never enjoyed the independence that one often connects to a level of government. Municipalities have never been financially independent, nor have they been granted the resources to become so. Until very recently, municipalities were not given the authority to forge their own economic futures, and instead were obligated to rely on provincial departments or provincially and federally funded outside agencies. Nonetheless, even with this authority, few municipalities have the resources or capacity to properly pursue economic development.

Having never been independent or autonomous, municipalities survive through stubborn perseverance and an increased tolerance of accepting and doing less. Many municipalities within the past 20 years have lost a quarter of their already small populations and have seen their overall level of provincial support decrease by approximately sixty percent. Municipalities continue to operate, but have been noticeably weakened. Towns have greater difficulty in retaining or improving their staff. They operate with aging infrastructure that they cannot maintain and have a difficult time replacing. The demands of economic diversification and environmental standards cannot be addressed by most municipalities, and are instead handled by other governance structures that are organized by the provincial and federal government. Municipalities are provided with enough support to get by, but not nearly enough to be sustainable and thrive.

Neither municipalities nor the provincial government are entirely to blame for the plight of municipalities. Rather, the difficulties faced by municipalities are a reflection of a municipal system that does little to foster cross-municipal cooperation. This statement, and the truth of the above Said quote, are obvious when analyzing the connections that municipalities have made since Confederation. Within our municipal system, towns and cities have sought to survive by making the vertical connection between themselves and the provincial government. The horizontal connections to neighbours have been ignored, and neighboring municipalities are considered competitors, not partners.

What needs to be considered is whether the current municipal system is worth it. Has supporting this system, which puts a municipality's relationship with the province ahead of its relationship with its neighbour, ensured the survival of municipalities? It doesn't look like it. It is unfortunate, but many municipalities are dying - their populations have aged, and worst of all, the young people have gone and are not coming back.

Yet, municipalities deserve some of the blame for the state of the current municipal system. Municipalities are at fault for not demanding more of the province, and more importantly, not being organized enough to do so. Municipalities are fully aware of their situation, and have made little progress in coming together to address their significant problems. It is difficult to understand why this is the case. Certainly there are few attractive legislative options available, but this does not account for the lack of urgency that many municipalities feel towards regional cooperation.

This lack of urgency and the weakness of municipalities highlights the need for this study, and the discussion, debate and change it hopes to spur. What we are arguing for is a significant reform of the municipal system; one that empowers municipalities, protects their interests and autonomy, and gives them the voice that they need. Municipalities Newfoundland and Labrador is not releasing this study to destroy municipalities and rob their identities; we are instead releasing it out of a deep sense of concern and love for our municipalities, and an understanding of the urgency of the present. It is time to understand that the status quo cannot be improved by slight tweaks or changes. There needs to be substantive change: a reevaluation of how municipalities operate, raise revenue, and forge the connections that help them survive and thrive. Municipalities have to demand better of themselves and of the province that regulates them.

Volume one and two of this study highlighted the need for regional government. This volume will explain how regional government will augment and assist local government. The volume also provides various regional government models that allow us to imagine how regional government will look in Newfoundland and Labrador. It is important to understand that regional government can be used as a tool to help, not supplant, local government. As the “characteristics” section of this paper will show, a regional government will possess and promote all the traits of a municipal government. Therefore, regional government should not be a foreign institution, but rather one that upholds and addresses local concerns in a manner that municipal governments cannot.

We are proposing a robust system of regional government, with defined, prescriptive authority. Municipalities already have the option of creating a weak regional government - the current regional council model available under the *Municipalities Act* - and have shown almost universal disinterest towards it. If a regional government is going to defend and promote municipal autonomy, it needs authority and resources. To do otherwise, would be to run the risk of creating a system that will be ignored or too weak to be effective.

We expect that regional government would be more expensive than the current municipal system. As this paper will show, a regional government needs to be able to provide certain services, which will need to be financed in some way. We do not propose a specific system for raising this extra revenue. That requires a separate study to assess changes to the municipal fiscal framework. With that said, this paper strongly advocates for a regional government system that has some independent revenue raising capacity. We also think that the extra cost of regional government will be more than offset by the savings and increased revenue that regional government could generate. Moreover, the increased cost of regional government must always be compared to the significant costs, both financial and political, of doing nothing.

Though regional government will require compromise by municipalities, it will also require specific guarantees from the provincial government. A regional government system must be forged on an understanding that the province will respect municipal efforts at reform and not pursue any policy that will adversely affect the sustainability of municipalities or the regional government. To formalize this new compact, a “new deal” for municipal-provincial relations, modeled after British Columbia’s *Community Charter*, needs to be created. Municipalities need to feel secure and respected if they are going to change.

This study analyzes seven different regional government models. Some are not very good, such as the regional council model available under the *Municipalities Act*, but have been included because there may be something beneficial within them and they provide a good point of comparison for other models. It needs to be stressed, however, that Newfoundland and Labrador will not be able to

replicate any system of regional government in place in another jurisdiction. All regional government models explained in this paper are home-grown: they were developed within their jurisdiction and address issues particular to their jurisdiction. Newfoundland and Labrador will thus have to develop its own regional government system. The purpose of providing the regional government models, therefore, is to illustrate the options that are available and to consider which aspects of the models could be applied to this province. There is no need to entirely invent something when parts can be copied from elsewhere.

There is a purpose to this study that overarches all three volumes, and that is to eliminate the knowledge gap that exists with regards to regional government. The most significant finding of MNL's Community Cooperation Resource Centre (CCRC) is that little information has ever been gathered or written about municipal government in Newfoundland and Labrador. With the exception of a few academic publications, MNL reports, and CCRC surveys, there has been minimal work done on municipal government in the province. There is even less written on regionalization in the province. There is currently no government sponsored, publicly available pamphlet or paper explaining regional councils, regional service boards, or the amalgamation process. That material simply does not exist.

If regional government is going to be considered and debated, this knowledge gap needs to shrink. Regional government has been dismissed or ignored for a long time, and we are not even certain that it has ever been explained to municipal leaders. We hope that the entirety of this work, and this volume in particular, assists in providing some understanding of regional government. We do not expect you to agree with all of our analysis. That would be unhelpful.

This is a lengthy study, but we think it is a very worthwhile undertaking for the reader. Regional government is a broad topic that requires a broad scope. It would be a disservice to the debate to intentionally ignore an important component. We hope our work will help you consider municipal government in a new light.

The Case for Regional Government

Introduction

In this section, the theoretical and practical reasons and implications for regional government are presented and analyzed. This involves considering the “science” behind regional government or municipal expansion - the economies of scope and scale argument - and an assessment of the essential characteristics of any local government. What will be made clear is that an effective, representative, and well thought-out system of regional government can significantly enhance our current local governments’ ability to fulfill their responsibilities and meet their potential. This can be done by creating a regional government system with more capacity than many existing municipalities, while still maintaining the integrity and dignity of current local governments.

The Primary Importance of Service Delivery

Local government is often seen as having two essential components: representation and service delivery. As the most local form of democratic government, municipal councils are held in high regard as they provide residents with the greatest opportunity to interact with democratically elected representatives. Deciding upon the optimal size of a constituency, however, is an inexact science and can have a significant impact. As the American founding father James Madison wrote, “[b]y enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great...objects.”¹

The service delivery component of municipal government is self-explanatory: residents of a municipality pay municipal taxes in return for certain services such as water, sewer, and adequate infrastructure. Scholars, pundits, and politicians who advocate a “consolidationist” approach to municipal government stress the importance of service delivery; one larger municipal government is preferred because it supposedly leads to stronger and more accountable government, greater efficiency in the delivery of services, and more fairness in allocating costs to residents.²

At the other end of the spectrum from the consolidationists are the “public choice theorists.” Public choice theory argues that smaller units of local government are beneficial because the existence of multiple units of government in the same area maximizes consumer choice. As Kushner and Siegel state, in public choice theory “residents are able to choose the municipality that provides the package of taxes, goods, and services that most closely matches their desires.”³ This theory is consistent with the traditional view of accessibility, which holds that smaller units of government are better because they promote direct citizen involvement in decision making.

Within the context of Newfoundland and Labrador the public choice theory makes sense only with regard to local service districts. Outside of the capital city region, where a variety of choices exist to

¹ Madison, as quoted by Joseph Kushner and David Siegel, “Effect of Municipal Amalgamations in Ontario on Political Representation and Accessibility,” *Canadian Journal of Political Science* 36:5 (December 2003), 1038. [Hereinafter “**Effect of Municipal Amalgamation**”].

² Kushner and Siegel, “Effect of Municipal Amalgamation,” 1036.

³ Kushner, “Effect of Municipal Amalgamation,” 1036.

cater to a constant flow of people, most residents of the province live in municipalities based on kinship or religious affiliation. And though the choice of living in a local service district appears to correspond to the public choice theory, in reality it does not because residents in LSDs still expect to have their roads maintained and plowed and to use facilities that exist in municipalities; the expectation, however, is that these costs will be covered by the provincial government and other municipal authorities, not by the residents of the LSDs.

While smaller municipal units can promote greater citizen involvement, in Newfoundland and Labrador it appears that Madison's concerns are realized as provincial residents are unduly attached to their local government to the detriment of a reasonable discourse on reform. With that said, the consolidationist position, though making some valuable points on effective service delivery, is too extreme. This study is not suggesting the creation of several large single-tier municipalities to replace dozens of little ones.

The focus of this study will be heavily weighted on the regional provision of services and making service providers democratically accountable. Of course governments represent the people, but their primary purpose is to provide a service. Whether this is a broad responsibility such as citizen protection or a very local one such as community recreation, governments provide services. Politicians are elected to macro-manage the provision of services. Therefore the debate on regional government is essentially a debate about the delivery of services that is couched in terms such as economies of scale, reducing duplicate services, and improving the quality of services. Jean-Guy Finn, in his report on local government in New Brunswick, succinctly summarizes the debate for regional government in a manner that is fully transferable to the Newfoundland and Labrador municipal environment:

In the context of local governance, regionalization often comes about as a means of dealing with a number of issues associated with small community-based local governments. In looking at how existing services can be reformed or how new services can be provided, small local municipal government is not always seen as the most logical solution and, in some cases, is becoming increasingly difficult to defend. Small municipal governments may be wonderful forums for residents for their responsiveness and accessibility, however, they do not always lend themselves to efficient and effective service provision. It is commonly demonstrated and accepted that units of socio/political organizations of a certain size are required to achieve economies of scale. Regionalization (either through a large scale regional municipality, second-tier government or regional service district) can constitute a method of apportioning the costs of certain designated area-wide local services among communities.⁴

It should be noted that rarely is the argument for regional government framed around the reduction in the number of municipal councillors, though it is sometimes implied in the argument for reducing administrative costs. Most regional schemes, however, make significant efforts to ensure the continuation of proper access and representation.

⁴ Jean-Guy Finn, *Building Stronger Local Governments and Regions*, 16. Available through the Government of New Brunswick, Communications New Brunswick Web site under "Features" and "2008-Local Governance Report - Building Stronger Local Governments and Regions (December 15, 2008)," <http://www.gnb.ca/cnb/promos/flg/mainreport-e.asp>. [Hereinafter "**The Finn Commission**"].

Economies of Scale and Scope

Like many debates, the discussion on regional government possesses jargon and buzzwords that few people untrained in economics or political science really understand. One term that is often used with little explanation is economies of scale, which are characterized as “elusive” in MNL’s 2005 President’s Task Force on strengthening communities.⁵ Economies of scale refer to a decrease in the average cost due to an increase in quantity. In the context of municipalities, economies of scale refer to a decrease in the cost per person for a certain service as the population served increases. Thus, the greater the population serviced, the lower the per person cost of service delivery.⁶ According to Dollery and Crase, economies of scale exist when there are high fixed costs that coexist with low or constant variable costs.⁷ In the municipal setting, economies of scale can be realized for such services as waste management or recreation, as the cost per person of maintaining a dump or stadium can be decreased if more people contribute to and are serviced by the dump or stadium. In achieving economies of scale, duplicate services are often eliminated, which can provide further savings.

There is a significant debate on when and how economies of scale can be realized at the municipal level. As economist Joseph Kushner notes, “as a municipality expands, the per unit cost initially falls due to economies of scale but eventually increases due to diseconomies.”⁸ Kushner refers to diseconomies of scale as being increased bureaucracy and worker alienation. What Kushner is arguing is that there are limits to economies of scale, and the lack of savings realized in amalgamations in Toronto and Montreal, for instance, show this.

But does this mean that economies of scale cannot be achieved to any meaningful degree in Newfoundland and Labrador? The scale of many local economies is so small that significant savings will be more difficult to achieve. Regardless, some savings exist by sharing the costs of a dump or the maintenance of a stadium. As Kushner notes, waste disposal economies of scale exist for communities of up to fifty thousand people,⁹ a population level which in this province covers entire regions. Regardless, any savings for municipalities in this province are essential considering the shrinking population and tax base of many towns.

Another term in the regional government debate that is often not explained but very important is economies of scope, sometimes referred to as economies of joint production. Economies of scope refer to the economic advantages that flow from a single organization, like a municipality, providing a broad range of goods and services. An economy of scope is achieved when the cost of producing a set of services in a single organization is lower than the cost of those services being produced by a

⁵ President’s Task Force on Municipal Sustainability, *Strengthening Our Communities*, (Discussion paper for the Newfoundland and Labrador Federation of Municipalities, August 11, 2005), 10. [Hereinafter “**NLFM Strengthening Our Communities**.”]

⁶ Brian Dollery and Lin Crase, “Is Bigger Local Government Better? An Evaluation of the Case for Australian Municipal Amalgamation Programs,” *Urban Policy and Research* 22:3, 267-268. [Hereinafter “**Is Bigger Local Government Better?**”].

⁷ Dollery and Crase, “Is Bigger Local Government Better?,” 268.

⁸ Joseph Kushner, “The Effect of Urban Growth on Municipal Taxes,” *Canadian Public Administration* 35:1 (March 1992), 96. [Hereinafter “**The Effect of Urban Growth**”].

⁹ Kushner, “The Effect of Urban Growth,” 98.

number of specialized organizations. These lower costs are derived from the fact that a single organization can minimize the costs of fixed overheads, like central administration.¹⁰ Economies of scope, however, are not achieved by many municipalities providing the same services in the same area. For an economy of scope to be realized, the single organization must cover a certain region that allows it to achieve economies of scale.

The greatest benefit to establishing a regional government that can realize economies of scale and scope is that it gives the region the opportunity to provide more and better services. Thus, a regional structure that establishes an economy of scale and scope may also be able to provide regional planning, economic development, and waste management that meets current government guidelines. This would put these services under the control of elected local leaders, who should be ultimately responsible for delivering them.

Regional Government as a Forum for Ideas

There is one benefit to regional government that cannot be financially measured, and that is the opportunity to exchange ideas. This benefit is not quantifiable in a feasibility study, but it adds enormous value to a regional undertaking. Municipalities already engage in forums that facilitate the discussion of ideas – MNL’s Municipal Symposium and Local Action for Developing Regions (LADR) workshops are two notable examples. These opportunities, however, are too infrequent and often involve the municipality as a passive participant. Moreover, the rate of attendance at these events fluctuates, resulting in a knowledge gap between municipalities.

Without a regional structure, ideas also become a source of competition, as municipalities are unwilling to share ideas in the hope of gaining a competitive advantage over their neighbours. While competition will always exist, the current municipal system does not allow local government to effectively create competitive advantages on a provincial, national, and international scale. Many municipalities within a region compete for every possible commercial tax dollar, which often frustrates meaningful regional economic development. As one community leader on the Bonavista Peninsula noted, “a company came to put a strip mall in [the region] and the towns were competing with one another. As a result, it never got done.”¹¹

A regional structure should have the ability to properly plan, create and implement regional policies to eliminate counterproductive competition. Local ideas can become regional ideas with the goal of benefitting the entire region. The regional system will be a ready-made forum for partnerships to be formed and ideas to be refined. Certainly regions will compete against each other, but this would be logical, productive and more manageable competition. There needs to be an understanding that the ideas that can benefit one municipality in a region will benefit the entire region.

Characteristics of a Municipal and Regional Government

The characteristics of a regional government in Newfoundland and Labrador should be no different from the characteristics of the province’s local governments. The 1974 Royal Commission on

¹⁰ Dollery, “Is Bigger Local Government Better?.” 268

¹¹ K. Vodden, *Municipal Service Sharing Case Studies: Excerpts on Municipal Cooperation in Economic Development in Newfoundland and Labrador*, (Unpublished paper), 17

Municipal Government in Newfoundland and Labrador (the Whalen Commission) listed seven primary characteristics of a desirable local system. Jean-Guy Finn, in his report on local government in New Brunswick, subsequently adopted these characteristics for his analysis, though he added two additional criteria. A review and analysis of this list reveals that the characteristics of a local government can be imposed on a regional government, and in some ways are better performed by the regional entity.

According to the Whalen and Finn Commissions, all local governments should have the following characteristics:

Access

This refers to the closeness of residents to their government and to the opportunities of residents to make their views known to those who are elected. Municipal governments are seen as more accessible and are locales of active democracy and resident empowerment.¹²

Under our current municipal structure

Given that Newfoundland and Labrador has a large number of municipalities, the current municipal system allows for residents to have a significant amount of access to municipal officials. It is likely that this high level of access contributes to the attachment that many residents have to their municipalities.

Under a regional government system

A regional government would not diminish the level of access residents have to councillors. Regional government councillors would certainly have a larger constituency, but this would perhaps be a few thousand residents rather than a few hundred. Moreover, local councils would still exist, which would maintain current local access levels.

Service

This characteristic examines the capacity of a municipality to provide facilities and services according to the needs and wishes of local residents.¹³

Under our current municipal structure

As discussed in Volume 2, the capacity of most municipalities in the province to provide adequate services is quite low. Without grants and support from government, few municipalities can provide adequate infrastructure and have to suffer with poor roads, outdated sewer systems, and difficulties in maintaining community centres. The inability to change this deficiency undermines the importance of residential access to municipal leaders; pleading poverty makes a municipality look helpless.

¹² The Finn Commission, 12.

¹³ The Finn Commission, 12.

Under a regional government system

A regional government structure should be able to provide services at a higher quality and more efficiently. The potential exists within a regional system to hire qualified staff to supervise or conduct existing and future municipal services. A regional government should be able to prioritize projects by considering the entire scope of the region and the demands of residents. A regional structure should provide a level of organization that is beyond the current capability of many municipalities.

Identity

This is a difficult characteristic to assess because identity is completely subjective and exists only in the minds of individuals. People have many identities and choose them according to their environment. Communities in Newfoundland and Labrador have also established identities, which, when positive, should be supported by the provincial government.

Under our current municipal structure

Local governments in Newfoundland and Labrador are strong supporters of community identity, often to the detriment of progress. Fear of loss of identity is often cited as a cause for disputing otherwise positive reforms. The acute attachment to local identity is probably the result of the traumas of resettlement and, more recently, the cod moratorium. Residents of towns fight for their municipal buildings and fire halls because these are locales for community gatherings. Losing these structures creates a fear that the community will no longer gather together. But what few consider when emphasizing the importance of these structures is that the community existed before they were erected. A community is more than its town and fire halls. What also must be considered is all residents of Newfoundland and Labrador take pride in their municipal structures - our love of these buildings is a common link. Residents of the province all have too much in common to be distinct from each other.

Under a regional government system

A form of regional government should not impede upon local identities, but it should try to forge new regional identities. It is likely that substantive regional identities already exist, but for the sustainability of a regional structure, people need to identify with it. This goal will only be achieved if a regional government system is successful.

Representation

This characteristic refers to local ownership of decisions and the general responsiveness of the local political process. Municipal governments should possess greater local knowledge of the situations for which government decisions are made.¹⁴

Under our current municipal structure

¹⁴ The Finn Commission, 12.

In some ways, local governments in Newfoundland and Labrador meet this criterion as they best understand the needs of their community and are responsible for decisions regarding the improvement of infrastructure and the setting of property tax rates. But as the demands on municipalities have increased, their ownership over municipal decisions and services has decreased. With regards to waste management, economic development, and municipal planning there is very little local ownership because towns are either following the dictates of the provincial government, not fulfilling the responsibility due to low capacity, or have granted ownership of decisions to regional boards over which they have only partial influence.

Under a regional government system

A regional government should not have to remove local ownership over decisions. Although it may appear contradictory, a regional government system should provide greater municipal control and ownership. This is achieved in two ways. First, a regional council will be entirely composed, in one form or another, of popularly elected local officials. A regional council could be composed of directly elected regional councillors, appointed councillors from participating municipalities, or a mixture of both. Second, a regional council will be responsible for many of the services that municipalities currently share with the province or other sectors. Therefore, within a regional system, municipal leaders will have responsibility and ownership over a broader spectrum of local issues.

Efficiency

This addresses the quantity of resources (physical, human, and financial) required to deliver a set of services. Efficiency is improved when the same set of services can be delivered with less resources or when more services can be delivered with the same quantity of resources – in other words, efficiency is reached when economies of scale and scope are achieved.¹⁵

Under our current municipal structure

It is difficult to measure efficiency in our current municipal system as there are few standards by which efficiency is to be judged. However, it is a common refrain among past commissions into local government that, for a long time, local government in the province struggled to efficiently deliver services. Thus, services were not poorly delivered, rather service delivery was costly because each town delivered services to only their specific community and did not share this responsibility with neighbours. With a reduction in the financial resources available to municipalities, it appears that they are starting to become more efficient through the use of collaborative service arrangements. But there are limits to the efficiency of small-scale service sharing agreements. These arrangements usually provide only enough revenue to operate the service, making maintenance and service upgrades very difficult without provincial funding or local fundraising.

Under a regional government system

One of the essential purposes for creating a regional structure will be to provide more efficient services. A regional system could provide better organization, more easily realize economies of scale and scope, pool greater resources for better equipment, and more effectively lobby for extra funding. Any regional government that is created should also have efficiency standards for both operations and outcomes, which will be employed to measure efficiency on an annual basis.

¹⁵ The Finn Commission, 12.

Effectiveness

This characteristic refers to the ability of a municipality to achieve its democratic and service goals and objectives.¹⁶

Under our current municipal structure

Like measuring efficiency, there are few standards to gauge the effectiveness of municipalities. As has been discussed in Volume One and Two, local government in Newfoundland and Labrador is not particularly effective in delivering its democratic objectives. As builders of a culture of democracy, local government in the province barely passes. This is not a reflection on municipal councillors who work hard at their jobs, but it is evident that most people are not interested in playing a role in the running of a municipal government (it is difficult not to blame the current municipal structure for this disinterest because rates of volunteerism in small municipalities remain high).

With regards to service delivery, towns have no real way of knowing if they operate effectively, meaning whether the services they are providing are achieving the desired result. Certainly, municipalities continue to collect garbage, repair roads, and operate water and sewer systems, but it is difficult to judge whether the delivery of these services meets the level that is expected by residents or addresses their needs or concerns. For a more detailed analysis of municipal effectiveness, please see the Municipal Stress Test section in Volume 2.

Under a regional government system

Similar to measuring efficiency, a regional government should operate with specific benchmarks for effectiveness. With standards to meet, a regional government should provide a more effective means of delivering services and achieving democratic goals. Any regional government will have to include all LSDs and unincorporated areas within a region, thus delivering representative democracy to these communities. As well, there is an expectation that a regional government will energize the electorate to become more involved; with greater resources, it is anticipated more people will feel the urge to run for municipal office.

With regards to services, a regional government structure should be better able to understand and address the specific needs of the residents of a region. This could be achieved by having a government system that is staffed with qualified individuals, who not only assist with delivering regional services, but who also provide support to municipal administrators and councillors.

Self-reliance

This refers to the ability of a municipal government to function independently of the provincial government from a legal, financial, and human resources perspective.¹⁷ As Tindal states, “A local government that counts on substantial transfers from another level of government to fund its operations risks compromising its autonomy and independence. Transfers of such magnitude also

¹⁶ The Finn Commission, 12.

¹⁷ The Finn Commission, 12.

tend to violate a very basic principle of public finance, which is that the government that spends funds must also raise them.”¹⁸ A self-reliant municipality is an autonomous municipality.

Under our current municipal structure

The vast majority of municipalities in this province have never been financially independent of the government. There were financial benefits to incorporating as a municipality and this dependence on provincial funding has never disappeared. Unfortunately for municipalities, provincial-municipal grants have significantly decreased. A positive result from this cutback is that municipalities are now more judicious in their spending. Even so, an ongoing fiscal dependence still exists and is displayed by the reliance of many municipalities on MOGs to operate their municipality and capital works cost-sharing programs and gas tax funds to improve infrastructure and to adapt to changing standards. Municipalities will never be financially independent within the current system, nor was this system created with the intention of creating self-sufficient municipalities. Given the service and administrative requirement of a municipality and their limited means of raising revenue, the vast majority of municipalities in Newfoundland and Labrador will always be dependent on provincial and federal funding.

Under a regional government system

It is unreasonable to state that a regional government will be self-reliant upon its creation. What a regional government should be able to do is make better use of current municipal resources by conducting a regional audit and prioritizing. There would be a structure for establishing service sharing agreements and requests for provincial funding would be made by an entity representing a region. As a result, the provincial government would no longer be able to refuse funding on the grounds that it only serves to create a service that is duplicated in the neighboring municipality. Most importantly, a regional government should have the capacity to better collect municipal taxes from local debtors, which could be a significant benefit to municipal coffers.

Even with an increased capacity to collect taxes and prioritize spending, a regional government could face some of the same financial problems that impact municipalities. There are only two ways to avoid these problems. First, a regional entity would need the authority to levy and collect some form of regional tax from all residents of a region. Second, the provincial government would have to consider reforming municipal taxation powers to allow municipalities to collect more revenue in a more efficient manner. It would make sense to couple municipal taxation reform with regional government because a regional government system should provide the extra capacity needed to properly manage enhanced taxation powers.

Simplicity

This characteristic relates to the ease in which residents, as voters/participants, can understand local government, including special purpose agencies. But as the Finn Commission cautions, “simplicity of structures should not, however, stand in the way of sound and effective local government.”¹⁹

¹⁸ Tindal, as quoted in The Finn Commission, 15.

¹⁹ The Finn Commission, 12.

Under our current municipal structure

Local government in Newfoundland and Labrador is perceived as being straightforward: councils are elected every four years to represent the electorate and guide the progress of the town. This simplicity, however, is more apparent than real. As the analysis in Volume 2 suggests, municipal governments provide some services, and separate regional agencies provide others – most notably Regional Economic Development Boards and waste management authorities. This is in addition to the growing number of service sharing agreements, which further complicate municipal government. Municipal government, therefore, is splintered over many different organizations and groupings.

Under a regional government system

A regional government, if created properly, should simplify local government – services would either be the responsibility of the local government or the regional government. Service sharing arrangements would be made under the umbrella of the regional government and subject to its rules. There would be no more regional service boards and economic development could be brought within the regional structure. Moreover, regional government should abolish the distinction between municipalities, local services districts, and unincorporated areas. Rather, all areas within a region would fall under the jurisdiction of the regional government. This will eliminate the governmental “black holes” that exist in the current system.

One of the most common complaints leveled against regional government is that it “cannot be another level of government between existing municipalities and the provincial government.”²⁰ There is a perception that reforming the hierarchy of government will complicate and weaken municipal government. This argument is not true. With a clear hierarchy, which a regional system should create, local government should be more coherent and lines of authority less blurred. An understandable hierarchy is currently not present in local government because it is unclear where specific service boards and organizations fit in the order of government.

Accountability

This relates to the degree to which responsibility for actions and decisions can be identified and understood, and the extent to which residents can hold their elected representatives responsible.²¹

Under our current municipal structure

In many ways, the current municipal system does hold elected officials accountable as council meetings and votes are public. Yet, as the preceding section on simplicity illustrates, accountability in the municipal system is not straight-forward. Municipal councillors cannot be held accountable for waste management or economic development because they have little control over how this is conducted. Consequently, in some ways, it is increasingly difficult to trace the lines of accountability in the municipal system.

²⁰ NLFM, *Strengthening Our Communities*, 14.

²¹ The Finn Commission, 12.

Under a regional government system

A regional government should provide greater and clearer accountability. Elected officials will ultimately be responsible for all municipal responsibilities, regardless of whether it is a local or regional responsibility. There will be no more counterproductive distinctions between policy creation and implementation. A regional government should end the disconnection between politicians and important municipal services, which undermines the powers of the electorate and the autonomy of the municipality.

Decision-making within a Regional Government

One of the most important features of a regional government system will be how the regional government entity makes decisions. A regional government must appear to be fair and to give a voice to all participants. To do this, a regional government system requires a fair and adequate voting system. Such a system will have to be distinguished from that of the current single-tier municipal system where one councillor has one vote.

For municipalities to work together, there needs to be a voting system that accounts for their various sizes within a region. A regional structure will not be supported if, for instance, one large municipality can impose its will on smaller municipalities, nor would it be acceptable if the reverse were true. A 2007 Alberta report provides a strong analysis of the theoretical underpinnings of a regional voting system. According to this report, a regional voting scheme should be:

- I. Explainable: a voting system should be easily understood by the general public, whether it is explained by the media or otherwise. If it is not explainable, the voting system could be perceived as unfair or unbalanced.
- II. Verifiable: it should be easy to accept the accuracy of the votes. A voting system cannot leave room for ambiguity.
- III. Easily Applicable: this means that representatives should be able to mentally tally prospective votes. Voting results should not surprise a representative because they did not understand the voting rules.
- IV. Low Cost: a voting system should not take much time and effort to run. This means that requirements for passing or defeating a motion should not have to be constantly renegotiated. A voting system should be easily balanced.
- V. Able to Withstand Small Changes to Population: this is an issue of fairness, as inevitable small population shifts should not create sharp changes in voting authority.
- VI. Workable: this is evaluated by how easy it is to pass a measure. If the voting system makes it too easy or hard to pass a measure the regional council will appear as less legitimate.

However, there are some issues, such as constitutional changes, where it should be difficult for a measure to pass.²²

In establishing a voting system, it is important to realize that there is no perfect system. As the Alberta report notes, the “real test of fairness is whether the ‘losers’ in a vote will accept the result.”²³

A fair and acceptable voting system is an imperative. Municipalities need to feel that their interests are both protected and promoted at the regional government table. This study will not propose a specific voting system, and it is perhaps appropriate that such a system be created only after regional boundaries are established. At this point, there will be a better understanding of the population differences between municipalities within a region.

Conclusion

It is important that a regional government not impose characteristics or purposes that are currently completely alien to the municipal system. Regional government must augment local government - it must make local government stronger, more empowered, more accountable, and better supported. In many ways, a regional government should facilitate municipal efforts at becoming viable, independent and autonomous institutions that are highlights of democracy and able to meet the needs of their residents. On their own and as they are currently constructed, most municipalities cannot achieve these goals. Regional government is not replacing local government, rather regional government is allowing local government to fulfill its proper function and meet its essential characteristics.

²² Computronix, *Regional Voting Schemes - Review and Recommendations* (Studied prepared for Alberta Municipal Affairs, October 29, 2007), 7-9. Available through Government of Alberta, Ministry of Municipal Affairs Web site under “Municipalities & Communities,” “Capital Region Plan,” “Capital Region Report” and “Other Background Documents.” http://www.municipalaffairs.alberta.ca/documents/Regional_Voting_Schemes_Review_and_Recommendations.pdf. (accessed March 2010). [Hereinafter “**Regional Voting Schemes**”].

²³ Computronix, *Regional Voting Schemes*, 6.

The Necessary Powers of a Regional Government

The effectiveness of a regional government will be directly linked to its authority. With too much authority, a regional government could usurp the purpose of the local government and with too little authority the regional government could be ignored and made irrelevant. Therefore, any regional government that is created will need to have specific responsibilities and the power to implement and enforce them. As the Whalen Commission notes, “establishing weak regional structures would merely compound the many problems” that municipalities face.²⁴

One of the arguments put forth by opponents to regional government is that it reduces municipal autonomy. This is simply not true. A regional government will be the ultimate protector of municipal government for two reasons. First, many of the responsibilities described in this section are those that municipalities currently have little autonomy over or cannot currently do, specifically economic development and planning. When these services are brought under a regional government, they will be managed and led entirely by popularly elected officials. Second, municipalities are facing new service and environmental standards that most cannot meet. This is what happened with waste management, and it will soon happen with fire protection and wastewater management. A regional government should be strong enough to either meet these standards or assist towns in meeting them. At the very least, regional government will be a municipally controlled institution that will manage the integration and implementation of new standards; there will be no off-loading of control to regional service boards with a provincially appointed chairperson.

A regional government will have to include all LSDs and unincorporated communities within the region. This will have the effect of equalizing the level of services within a region. Most importantly, it will provide the LSD or unincorporated area with a voice at the regional council and the ability to share in the regions resources. A regional government will be the direct level of government for LSDs and unincorporated areas. Therefore, the regional government will provide all current municipal services to these areas and will be able to impose and collect taxes.

For a regional government to be effective and improve the standing and sustainability of municipalities, it must have the following powers and responsibilities:

I. Regional and Municipal Planning:

The current state of municipal land-use planning in Newfoundland and Labrador is poor and regional planning is almost nonexistent. Only 50 percent of all municipalities have municipal plans, Out of this group, more than half had their plan developed prior to the mid 1990s when the provincial government stopped preparing plans for municipalities.²⁵ Since the province stopped providing this service a significant majority of towns have done little planning of their own. Most towns fortunate enough to have created a plan with provincial assistance have not updated their plans. The bottom line is that creating a municipal plan is outside the technical and financial capacity of most municipalities.

²⁴ Royal Commission on Municipal Government in Newfoundland and Labrador, *Final Report* (St. John's: Office of the Queen's Printer. 1974), 523. [Hereinafter “**The Whalen Commission**”].

²⁵ Government of Newfoundland and Labrador, *Measures in Effect: Plans and Regulations Made Under the Urban and Rural Planning Act* (Unpublished paper of the Government of Newfoundland and Labrador), 1-15. [Hereinafter “*Measures in Effect*”].

Proper land-use planning is essential for two primary reasons. First, a plan allows for an accounting of what a town already possesses. Second, a plan gives a municipality or region the ability to map out the future – what is needed and where growth should occur. If municipalities hope to benefit from current and expected economic growth in Newfoundland and Labrador they have to properly plan. This must also be done on a regional level because as individual units they are too small. Without proper planning a municipality will have little ability to manage development.

When contemplating the necessity of regional government, it is important to consider that town planning under the current municipal structure will not improve for the vast majority of municipalities in the province. Most municipalities cannot afford to hire a planner, nor is it likely they will be able to do so in the future. It also makes little sense for the province to pay for planners for every town in the province. Given the size of many towns, it is perfectly logical to expect municipalities to create regional plans that reflect a common policy for the future.

By granting a regional government the authority to conduct regional and municipal planning, it is not suggested that a regional government hire a planning firm whenever a plan needs to be created. What is being proposed is that a regional government hire a full-time planner that would work for the regional government, and subsequently for the municipalities. This would give municipalities, LSDs, and unincorporated areas continuous access to a planner who works for them and can develop plans that suit both local and regional needs. Planning has been neglected for too long, and planning authority is essential for a regional government.

II. Economic Development:

This is tied closely to planning as economic development cannot properly proceed without adequate planning. Apart from this fact, economic development needs to be managed by a level of government that has the ability to implement economic plans and is accountable to the electorate.

It is important to consider whether economic development is better pursued by individual municipalities. In short, it is not. Similar to planning, the scope of most municipal economies is too small for meaningful economic development. On a practical level, the province will never pay for, nor will most towns ever be able to afford, an individual economic development officer.

It is more logical to develop regional plans that account for the economic assets of municipalities and their respective regions. Unlike the Strategic Economic Plans of REDBs, the economic plans developed by a regional government would be created by municipal leaders, who would have ownership of the plan and be accountable for its success and failure. And like planning, it is envisioned that economic development in a regional government would be conducted by an economic development officer that is employed by the regional government and works exclusively for it and the region's municipal governments.

The current state of economic development is cumbersome and there is a disconnect between the body that creates policy (REDBs) and the body that implements policy

(municipal councils). This can create unnecessary delays. It also allows for municipalities to disown plans, which turns the entire economic development process into a wasted effort. For municipalities to become serious agents in economic development, they need ownership over the process and they need to feel empowered.

III. Set Business Tax Rates:

Regions should have uniform business tax rates. Unless you have the capacity of Paradise, St. John's, and Mount Pearl, competition between local municipalities for business is not positive. The local economies of most municipalities are not big or sustainable enough to properly compete against each other. With a regional government setting the business tax rate, local municipal competition would be limited and businesses would have no capacity to play municipalities off against each other. A further benefit to a regional business tax rate is that it would apply to local service districts and unincorporated communities, which eliminates the unfair advantage that these areas currently possess.

IV. Regional Taxation:

A regional government needs to be able to tax residents to raise revenue. What form this tax takes is uncertain, but it must be able to raise funds and not be solely dependent on municipal transfers. This would minimize tensions between regional and local governments in matters of finance since it is not a good idea to have a regional government indebted to a local government or vice-versa. The ability of a regional government to impose and collect taxes would also create a level of accountability between regional councillors and the electorate.

Regional taxation, however, would not replace a municipal property tax. Regional taxation would pay for regional services, while municipal taxes would pay for municipal services. To maintain their autonomy, municipalities need to keep their authority to set municipal taxation levels. With that said, the regional government should advise municipalities on the appropriate level of taxation needed to cover the cost of municipal services. In this manner, a regional government would provide extra support for municipalities.

V. Establish Variable Tax Rates

The *Municipalities Act* currently does not allow municipalities to impose variable tax rates. This means that municipalities must impose the same property tax rate throughout the entire municipality, regardless of the differences in services available to households within a municipality. It is unclear why variable taxation is still not permitted, but it is perhaps due to the lack of capacity of most municipalities to properly manage a variable tax rate system. A regional government, however, would need the ability to impose variable taxation rates because it would be the direct level of government to local service districts and unincorporated areas. It would be unfair to the residents of these regions to impose a uniform property tax upon them when the levels of services available to them varies dramatically: communities with no water and sewer system should not have to pay the same property tax rate as communities that do have such a system. Taxing the residents of these areas is necessary to ensure fairness, but fairness must also inform how these areas are taxed.

VI. Provide Emergency Services:

Regionalizing emergency services does not infringe on local autonomy because emergencies are not confined to municipal boundaries and often require an inter-municipal response. Regionalizing these services could improve their quality. A regional government may be able to provide remuneration for fire fighters and emergency responders. Sharing resources should allow these services to improve through the purchase of better equipment and the provision of better training. A significant number of municipalities already share these services, but it is time that they were integrated into a more efficient structure.

By regionalizing these services, municipalities would be better able to meet current and future standards for fire protection and emergency response. Legislation containing new firefighting standards has already been passed, though not yet proclaimed. However, once proclaimed, municipalities will have to meet new requirements in training and equipment that will tax an already declining volunteer firefighting corps. A regional fire service would be better able to adapt to these changes.

VII. Dispute Resolution:

A regional government needs to have a robust dispute resolution mechanism. Without the ability to resolve disputes between member municipalities, a regional government would run into the same problems that currently exist with joint councils and regional councils, where inter-municipal disputes are either ignored or allowed to fester. A dispute resolution mechanism will lend a sense of permanence to regional government by showing participating municipalities that a process is in place to address all issues and to move the government's agenda forward. The dispute resolution mechanism must be legislatively prescribed; this will avoid burdening a regional government with creating its own system and will ensure that dispute resolution is uniformly managed across the province.

VIII. Other Potential Powers:

Municipal Tax Collection:

Given the tax collection difficulties of many municipalities, it may be appropriate to authorize a regional government to collect all municipal taxes. In the 2007 MNL Municipal Survey, 80 percent of municipalities noted that they had a difficult time collecting taxes, and 78 percent noted that they had retained the services of a collection agency.²⁶ When these numbers are considered, it is logical for a regional government to collect municipal taxes if it can do so in an effective and efficient manner. For this service, the regional government would act solely as the agent for the municipal government, and would be required to turn over all funds to the municipality once collection costs have been recovered. This arrangement can also minimize any conflict regarding payments owed by the local government to the regional government. If a regional government collects municipal taxes, it would not have to worry about a municipality not paying for regional services because of an inability to collect taxes.

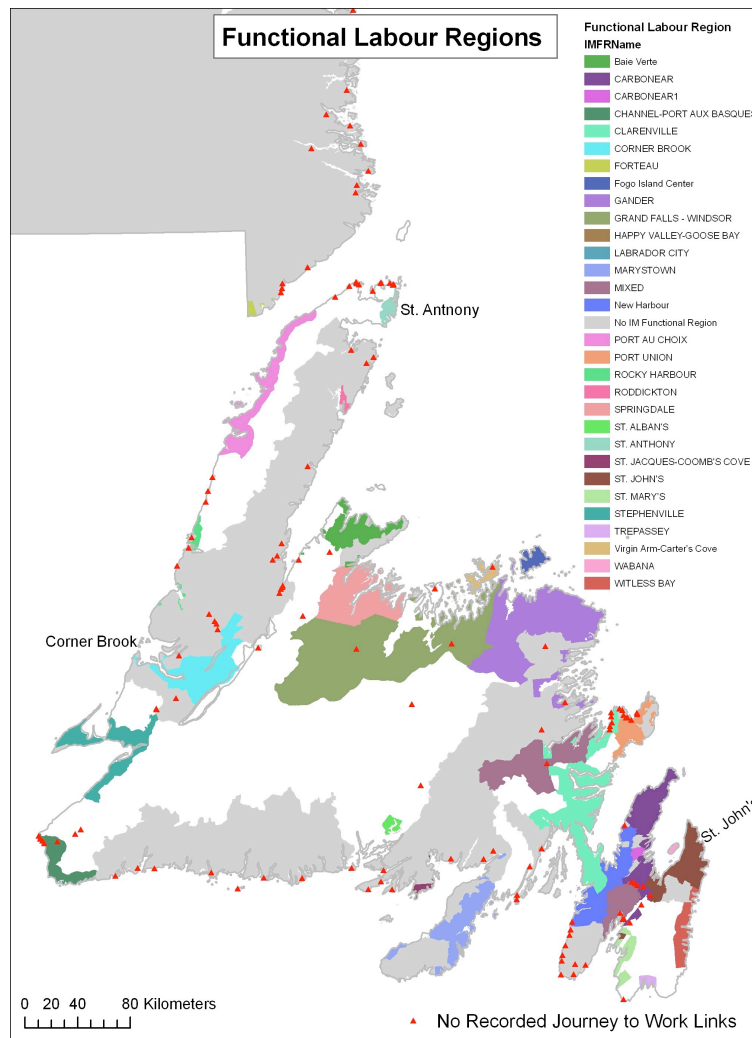
²⁶ Municipalities Newfoundland and Labrador, *Census of Municipalities in Newfoundland and Labrador 2007* (Census gathered for Municipalities Newfoundland and Labrador 2007), 37. [Hereinafter "*Census of Municipalities*, MNL"].

Waste Management:

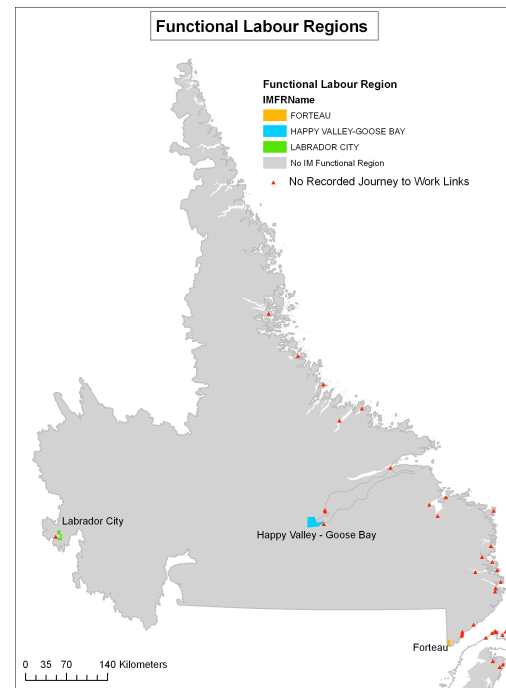
It is logical for a regional government to eventually manage waste management in the province. As was described in volumes one and two, the current regional waste management system represents a definite provincial intrusion into the authority of municipalities. Moreover, the geographical area covered by each waste management authority is so large that it limits the ability of most municipalities to have their opinions and concerns heard. Therefore, for the sake of municipal autonomy and local democracy, regional governments should assume control of waste management once the regional government shows it is able to take on such a responsibility.

Establishing Regional Boundaries - The Difficulty of Creating Imaginary Lines

One of the most difficult and controversial parts of creating new administrative districts is creating proper boundaries. In any discussion of regional government in Newfoundland and Labrador, establishing the boundaries for viable and functional regions will be one of the first concerns to be raised. Because of that, it is important that the issue be addressed in some manner in this study. It should be stressed that this paper does not propose specific regional boundaries and that MNL does not have a map in existence with the entire province carved into possible regional government regions.



Source: Alvin Simms, Working document, Rural-Urban Interactions in Newfoundland and Labrador



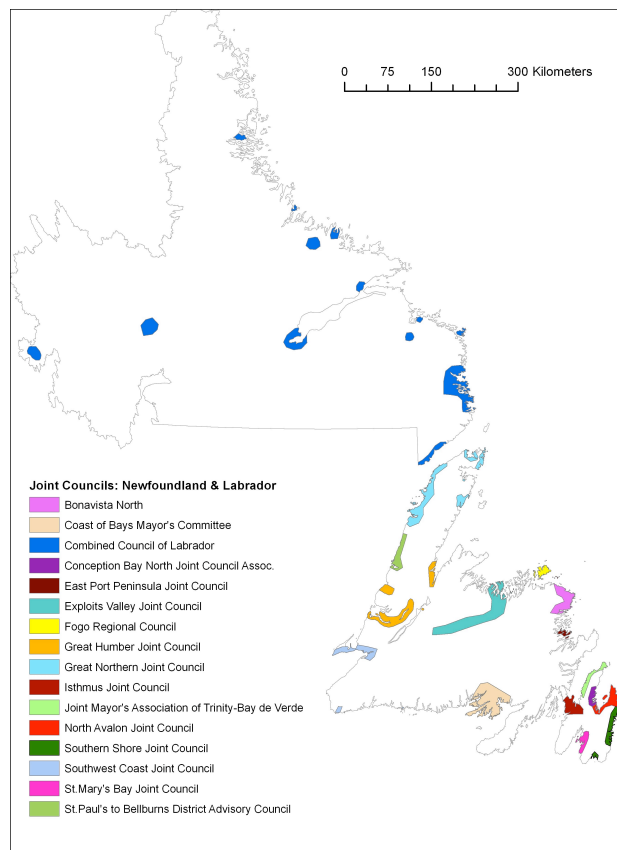
Source: Working document, Rural-Urban Interactions in Newfoundland and Labrador

Newfoundland and Labrador, like many other places in the world, has a high degree of regional fragmentation. The province is internally divided into hundreds of regions that have specific purposes and often overlap. Every community in Newfoundland and Labrador is part of at least 6 separate regions. The boundaries of some of these regions are drawn solely for the purpose of creating similarly populated

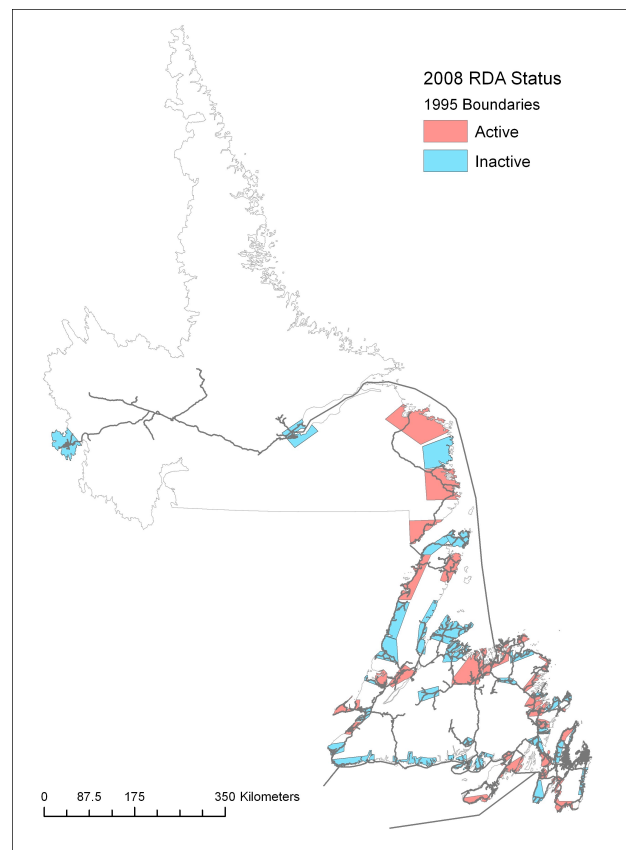
regions, such as electoral districts, while other regions are formed based on geographic location, such as provincial healthcare boards. Many regional boundaries, however, do not reflect the real interactions of people - where they work, shop, receive healthcare, and attend school. The needs and

interactions of most people result in cross-boundary activities; and as is often the case, the needs of a group of people may be more naturally connected to a region other than the one in which they reside. This is an inevitable result when many imaginary boundaries are created for distinct purposes.

Over the past three years, however, there has been an ongoing effort to delineate the province's functional regions. A functional region is characterized by a high frequency of internal regional economic interactions, such as where people work and shop. In essence, a functional region is a system of highly connected smaller and larger places.²⁷ In many cases, a functional region will also be a “nodal” region, which means that the region has a single focal point that serves the area around it.²⁸ Because a functional region is based on the broad connections between the people within a region and is not created with a single purpose, a functional region will contain or overlap two or more administrative regions.²⁹



Source: Working document, Rural-Urban Interactions in Newfoundland and Labrador

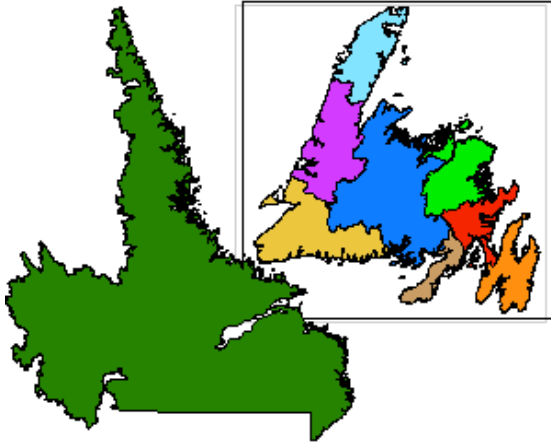


Source: Working document, Rural-Urban Interactions in Newfoundland and Labrador

²⁷ Charlie Karlsson and Michael Olsson, “The Identification of Functional Regions: Theory, Methods, and Applications,” *The Annals of Regional Science* 40:1 (March 2006), 2. [Hereinafter “**The Identification of Functional Regions**”].

²⁸ Lawrence A. Brown and John Holmes, “The Delimitation of Function Regions, Nodal Regions, and Hierarchies by Functional Distance Approaches,” *Journal of Regional Science* 11:1 (July 28, 2006), 58.

²⁹ Karlsson and Olsson, “The Identification of Functional Regions,” 2.



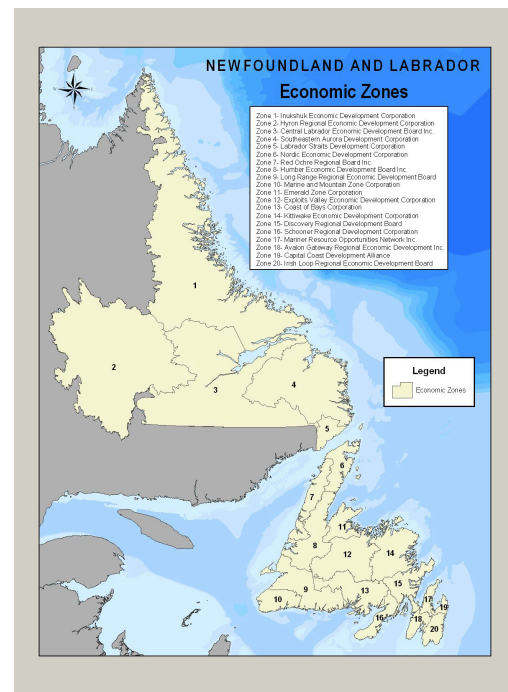
Source: Rural Secretariate Regions, Community Accounts

There are implications as a result of this disconnection. The most critical implication is that it creates policy planning and implementation problems. Policies that are implemented in one administrative region that encompasses half of a functional region may be different than the of the administrative region that covers the other half of the functional region. This can cause problems to the functional region and can only be overcome by greater collaboration between the two administrative regions. A second implication of this disconnect is that it frustrates practical efforts at municipal cooperation. Some municipalities that form part of a functional region have refused to join joint councils within that region because of differences in electoral regions. This is despite the fact that the town's economic and social connections are tied closer to the functional region rather than to an electoral boundary.

It is impossible for any regional government system to fully mirror the province's functional regions.

Some of these regions, Fogo Island and Forteau for example, are too small to be regional governments on their own. As well, there are many municipalities that are not located within a functional region but need to be incorporated into a regional government. Nonetheless, the functional regions must be considered in any discussion on regional government boundaries. Current administrative and electoral districts are imperfect and should not be unduly favoured as possible regional government boundaries. When regional government regions are created they should have strong internal connections with regards to services, social interactions, and common economic interests.

The recently completed functional regions analysis of Newfoundland and Labrador shows that there are thirty-two functional regions in the province. As can be seen from the map, these regions can be quite big (Grand Falls-Windsor) or very small (Trepassey). Most importantly, when the functional regions' boundaries are compared to those of the REDBs, the Rural Secretariat, joint councils, and provincial electoral regions, it is evident that the current administrative regions do not adequately encompass the actual regions of the province.



Source: Ministerial Committee on Regional Renewal. *Report of the Ministerial Committee on the Process to Renew Regional Economic Development.*

Regional Government and the Northeast Avalon

The Northeast Avalon Peninsula, and some parts of the Southeast Avalon, are unique within the province because much of the area is undergoing significant growth. Towns such as Torbay, Paradise, Conception Bay South, Logy Bay-Middle Cove-Outer Cove, Portugal Cove-St. Phillips, Bay Bulls, and Witless Bay have experienced significant population growth, which has brought increased municipal revenues and increased demands for services. The recent growth of these towns has also made them stronger and better able to protect their autonomy. Combined with the strengths of St. John's and Mount Pearl, this group of municipalities constitutes the most economically secure, prosperous, and well-served region in the province. Whereas most areas of the province are trying to stem and reverse the flow of outmigration, the Northeast and parts of the Southeast Avalon are trying to properly manage growth and accommodate a growing population.

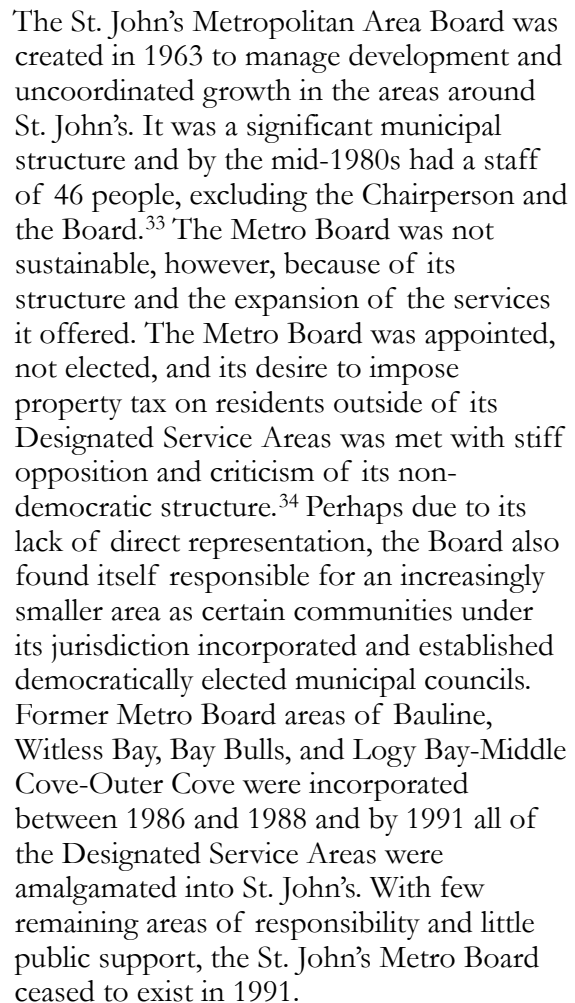
A significant challenge for regional government in Newfoundland and Labrador is to establish its importance for the east coast of the Avalon Peninsula. Recent efforts in other jurisdictions at municipal reform of heavily populated areas, such as the Halifax Regional Municipality and the Greater Toronto Area, have received mixed reviews and many argue that it created entities that were too big to be properly managed. But equating the creation of regional government in the Eastern Avalon to the amalgamation of big municipalities into one bigger municipality is a false comparison; regional government is not amalgamation, rather it is a means to enhance municipal autonomy by allowing municipalities to provide more and better services while taking a lead role in their economic and planning development. Regional government does not dissolve current town councils like amalgamation does. This distinction is important, particularly considering the contentious and politically sensitive debate surrounding amalgamation on the Northeast Avalon.

Despite the divisions between municipalities in the area, the Northeast Avalon is the most prepared region for the type of regional government system that is proposed in this paper. The Northeast Avalon has more regional and shared services than any other area in the province and has one of the strongest joint councils. Certainly, the municipalities in the area operate in a highly competitive market that can strain relations, but it has not kept them from sharing services and undertaking regional initiatives that improve the area.

The Northeast Avalon also has a long history of regional government. For decades, the St. John's Metropolitan Area Board acted as a regional government for communities on the Northeast Avalon. Never recognized as a municipality but granted municipal powers, the St. John's Metropolitan Area Board (Metro Board) provided municipal services such as water, sewer, road maintenance and garbage collection to its Designated Service Areas (DSA) - East Meadows, Shea Heights, Kilbride, and Evergreen Village - and imposed and collected a property and business tax from DSA residents and businesses.³⁰ This continued throughout the 1980s. The Metro Board also provided planning, building control, and animal control services to all areas within its jurisdiction, which in the mid-1980s included Logy Bay-Middle Cove-Outer Cove, Bay Bulls, Witless Bay, Bauline, Topsail Pond, Shoe Cove, Blackhead, and Windsor Heights, as well as the four communities within the DSA.³¹ In addition to these services, the Metro Board also managed, operated, and maintained the

³⁰ St. John's Metropolitan Area Board, *St. John's Metropolitan Area Municipality Structure and Purpose Review 1984* (St. John's Metropolitan Area Board, 1984), 13. [Hereinafter "*St. John's Metropolitan Area Municipality Structure*"].

³¹ *St. John's Metropolitan Area Municipality Structure*, 13.

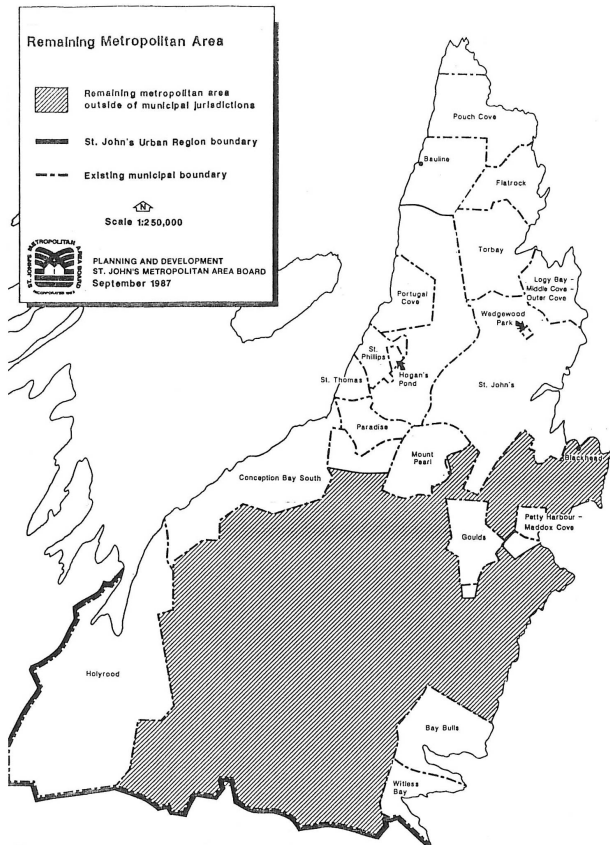


Nonetheless, the Metro Board's legacy remains. Its management of the area's regional water supply was shifted to a Regional Water Committee that was legislated under the *City of St. John's Act*.³⁵ This Committee contains representatives from all municipalities that are serviced by the regional water supply, thus keeping alive the regional perspective of the Metro Board. Overall, continuing the regional water service is seen as a success, as the water quality is excellent and is delivered at a lower

³⁵ *City of St. John's Act*, R.S.N.L. 1990, c. C-17, s. 402.1(1).

price than in other jurisdictions.³⁶ As a municipal leader from Portugal Cove-St. Phillips notes, “we get better quality at an affordable price. It’s no more expensive - cheaper if anything - and with less worries. It’s a fully professionally run water system, very good control on the water, [with] quality that an individual town couldn’t afford.

There are some cost savings, there’s quality, and there’s peace of mind; something that we don’t have to worry about.”³⁷



Source: Commission of Inquiry, St. John's Metropolitan Area. *Feasibility Report concerning a revised mandate for St. John's Metropolitan Area Board.*

Another legacy of the Metro Board is the continued emphasis on regional planning. The Metro Board was a key partner and implementor of the St. John's Urban Region Regional Plan, which was created in 1976 and covered planning for the entire Northeast Avalon Peninsula.³⁸ The desire for regional planning did not die with the Metro Board as efforts have been ongoing since 2005 to create a new Northeast Avalon Regional Plan, known as the NEAR Plan. In the realm of regional planning, the Northeast Avalon region is more advanced than any other part of the province.

The Metro Board's legacy should be interpreted more broadly than these two examples since it helped establish an ongoing tradition of regionalism that makes the Northeast Avalon the leader of regional initiatives in the province. The *City of St. John's Act*, which essentially replaced the *St. John's Metropolitan Area Board Act*, is the only piece of municipally focused legislation that creates regional service committees and establishes a municipal dispute resolution mechanism for municipalities that use

regional services. Currently, there are regional service committees or authorities in place in the Northeast Avalon to cover water, wastewater, waste management, and transportation.

A reasonable argument could be made that there is no need for regional government in the Northeast Avalon because such strong regional links already exist. But this argument presumes that a fragmented set of regional committees is the best means of providing regional services. It is not. Services do not operate in isolation from each other as issues such as water, wastewater, and waste management are intertwined. There are also efficiency and accountability issues that accompany the

³⁶ K. Vodden, “Northeast Avalon Municipal Service Sharing Case Study,” (Unpublished paper), 30. [Hereinafter “Northeast Avalon Municipal Service”].

³⁷ Vodden, “Northeast Avalon Municipal Service,” 31.

³⁸ *St. John's Metropolitan Area Municipality Structure*, 9.

establishment of several different regional committees. A streamlined system of one regional structure with the responsibility to manage all regional services would reduce administrative duplication and facilitate cross-service communication.

The preeminent reason why the Northeast Avalon should have a regional government system is because it has already proved that regional government can work. With various regional service committees and a dispute resolution mechanism in place, a form of regional government already exists in the region, though it is fragmented. And despite continued disagreements between some municipalities in the region, they continue to collaborate for the betterment of their communities. This is important. If regional government is to work it must be because the system can withstand and overcome disagreements amongst its members. The Northeast Avalon has shown that this can be done. Regional government in the Northeast Avalon may be a little different from that in the rest of the province - with greater resources, many municipalities in the region already have economic development officers and land use planners - but the utility and importance of such a system remain in the province's most populated and prosperous area.

Regulating Provincial-Municipal Relations

Before analyzing the various regional government models, the issue of provincial-municipal relations needs to be addressed. If municipalities are willing to make regional government work by lending it some municipal powers and letting it share in scarce resources, then the provincial government must establish a new covenant with municipal governments that grants municipalities the respect they deserve.

The model for such a covenant exists in British Columbia, which passed its *Community Charter* in 2003. The *Community Charter* acknowledges that municipalities are an “order of government” and that they are autonomous, responsible, and accountable.³⁹ The *Community Charter* is devoted largely to clarifying municipal-provincial relations, and is guided by the following principles:

- Respect: the provincial government respects municipal authority and vice versa;
- No Offloading: the provincial government must not assign responsibilities to municipalities unless there is a provision for the resources required to fulfill the responsibilities;
- Consultation: municipalities and the provincial government must consult on matters of mutual interest, including provincial consultation on changes to legislation, local government transfers, and provincial programs that will significantly affect matters of municipal authority;
- Diversity: respect for the varying needs and conditions of different communities;
- Balance: the authority of municipalities is balanced by the need of the provincial government to consider the interests of the citizens of the province as a whole; and
- Dispute Resolution: the provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation, mediation, and other forms of dispute resolution.⁴⁰

In addition to the above principles, the *Community Charter* also legislates the provincial government to recognize that municipalities require proper power and discretion as well as adequate resources to support current and future community needs.⁴¹

Within the new framework for municipal-provincial relations, the *Community Charter* expanded the authority of municipalities by granting them the status of a natural person and broad powers to provide a service, including substantial control over inter-municipal service schemes and the ability to establish corporations. In addition to these expanded powers, the *Community Charter* granted

³⁹ Bish and Clemens, *Local Government in British Columbia*, 4th ed. (Richmond: Union of British Columbia Municipalities, 2008), 23. [Hereinafter “*Local Government* 4th ed.”].

⁴⁰ Government of British Columbia, Ministry of Community Services, *Local Government Excellence through Collaborative Partnerships - Local Governance in British Columbia* (Prepared for the World Urban Forum III, Vancouver, B.C., June 19-23, 2006), 14. Available through the Government of British Columbia, Ministry of Community & Rural Development, Intergovernmental Relations and Planning Web site under “Department Publications” and “Local Government Excellence through Collaborative Partnerships.” http://www.cd.gov.bc.ca/LGD/intergov_relations/library/wuf_bc_guide.pdf (accessed March 2010). [Hereinafter “*Local Government Excellence*”].

⁴¹ *Community Charter* S.B.C. 2003, c-26, s. 1(2)(a)(c).

municipalities the right to impose regulations on matters within their defined jurisdictional sphere, such as cemeteries and services.⁴²

Enhanced municipal authority, however, was not granted without specific provincially-mandated requirements and limitations. Some limitations include sharing regulatory authority with the province for certain services (public health, environmental protection, building standards, wildlife), while others include granting the provincial government override authority for certain land use planning issues. Many of the requirements imposed on municipalities have to do with government transparency. With increased municipal authority, municipalities are now required to have voter approval before a municipal amalgamation can proceed and need to consult the electorate on a broad range of other issues, such as proposed business regulations. Municipalities are also required to produce an annual report, to be discussed at a public forum, that contains municipal performance measurement results, which gauge whether a municipality is meeting its service and administrative objectives.⁴³

It could be argued that the British Columbia *Community Charter* is a product of the strength and confidence of the province's municipalities. Therefore, the *Community Charter* did not grant rights to municipalities, rather it codified the rights that already existed. This perspective presumes that such an agreement could not work in Newfoundland and Labrador because its municipalities are weak and not pushing for more authority. There are significant problems with this logic. It is difficult to argue that it would be improper to require the government of Newfoundland and Labrador to respect municipalities as a level of government and provide them with the resources needed to deliver new and existing services. It is probable that the government of British Columbia established the *Community Charter* because the strength of its municipalities gave it no choice. Such pressure does not exist in Newfoundland and Labrador and there is an expectation that municipalities in this province are subservient and passive actors. Municipalities in this province do not have a *Community Charter* because they are too politically weak to demand one, not because they are not ready for the respect that accompanies such an agreement. This needs to change.

If municipalities are going to pursue regional government, they will require some assurances from the provincial government. Municipalities will need to know that a regional government will not serve as an excuse by the province to offload more responsibilities or to scale back grants. If municipalities are willing to change, there is no logical reason why the provincial government cannot codify its respect for local government. A *Community Charter*-like agreement in Newfoundland and Labrador would be a significant help in eliminating the culture of subservience to the provincial government that permeates municipal government in this province.

⁴² Bish and Clemens, *Local Government*, 4th ed., 23.

⁴³ Bish and Clemens, *Local Government*, 4th ed., 24.

Why Regional Service Authorities Are Not the Answer to Regional Government In Newfoundland and Labrador

Some may argue that regional service authorities, as they are currently constructed, could serve as a regional government in Newfoundland and Labrador. The 1997 Task Force on Municipal Regionalization noted that “municipalities would find no threat to their sense of community from Regional Service Authorities.”⁴⁴ We already have regional service authorities for waste management and, if they are successful, it is likely they will provide further services in the future.

But there is a definite limit to the use of regional service authorities. First, they do involve specific provincial intrusion into municipal responsibilities by having a provincially appointed chairperson and limiting the number of municipalities that can be represented on a regional service authority board. By granting regional service authorities additional powers, such as planning, economic development, and emergency services, boards would become *de facto* regional governments led by provincially appointed chairpersons. This would be intolerable for the development of municipal autonomy.

On the other hand, regional service authorities also run the risk of becoming service specific. In this manner, however, regionalization is developed with a patchwork approach that only causes further fragmentation. Municipal responsibilities do not exist separate from each other - what affects planning, affects fire protection, waste management, and economic development. The regional governance system in the province is already too fragmented, and one of the main attractions to a system of representative regional government is that it could end this fragmentation.

Thus, it is not in the best interest of municipalities to promote the regionalization of specific services. To the Finn Commission this strict sector-based approach “does not foster a cohesive and integrated approach to the development of communities within these regions.”⁴⁵ The Task Force on Regionalization in Newfoundland and Labrador echoed this sentiment by stating:

...the Regional Service Authority model would offer only minimal encouragement to further a sense of community. While the sharing of services between contiguous municipalities might be expected to foster closer relations between councils involved, there's little incentive to expand such service cooperation on a regional basis or for individual councils to think on a wider scale.⁴⁶

If municipalities value their autonomy, they should limit the use of regional service authorities. According to the Whalen Commission, service boards, which it termed “special purpose agencies”, would be “wholly undesirable” in Newfoundland and Labrador.⁴⁷ The Commission strongly believed “that no special interest, other than the paramount interest of elected municipal councils, should be

⁴⁴ Task Force on Regionalization, *Final Report* (St. John's: Government of Newfoundland and Labrador, 1997), 63.

⁴⁵ The Finn Commission, 62.

⁴⁶ Task Force on Regionalization, *Final Report*, 64.

⁴⁷ Whalen Commission, 536.

accorded the autonomy that is invariably a consequence of these special delegations.”⁴⁸ A proliferation of the power of regional service authorities will only serve to increase provincial intrusion into local government, creating intergovernmental entanglements that will be difficult to sever in the future.

⁴⁸ Whalen Commission, 536.

Regional Government Models

The regional government models explained in this section are either currently used in a specific province or country or are completely theoretical. In addition to explaining how the model works, we also analyze the model to assess its applicability to this province. It should be stressed, however, that no regional government model from another jurisdiction can be fully replicated in our province. All of the models presented in this section are unique to the jurisdiction in which they operate or to the commission in which they were proposed.

Newfoundland and Labrador must also develop its own distinct regional government model, but it cannot do so without considering the strengths and weaknesses of those that currently exist. With the characteristics of these models analyzed, we should be better able to pursue a meaningful self-reflection on regional government in this province.

A. The Newfoundland and Labrador Model

Considering that this is a study of regional government in Newfoundland and Labrador, it seems appropriate that we begin our analysis with the regional government option currently available in this province. This analysis is important because there is no literature that states how this province's regional government model works. Though the framework for this model is described in the *Municipalities Act*, the legislation can be confusing and does not explain how the process works in practice.

Part II of the *Municipalities Act* governs the creation and powers of regions. Section 26 of the Act allows the provincial government to establish an area in the province as a region, to amalgamate regions or annex areas to regions, to establish and alter boundaries to regions, and to disestablish a region. Prior to creating a region, the province must only ensure the completion of a feasibility study that includes a public consultation; even so the lack of a public consultation is not, under certain conditions, fatal to the process.

Powers: Upon the creation of a region, there may be an adjustment of the assets and liabilities between the towns and region. Thus, debt may be reallocated within a region, as could any assets such as fire equipment or roads. The province does reserve the right to allow a regional council to acquire the fixed assets of municipalities without providing them compensation, though the regional council must assume any liabilities attached to that asset. The provincial government can also grant a regional council the authority to require municipalities to connect to and use regional services and assess towns within the region for a general service charge.

A regional council can assume many responsibilities currently within the authority of municipalities. Once these powers are granted to the regional council, they stop being the responsibility of the towns, LSDs or cities that once performed them. The following responsibilities can be transferred from municipal to regional councils by the provincial government:

- the construction and operation of regional water supply systems, regional sewage disposal systems, regional storm drainage systems and regional solid waste disposal sites, including facilities designated in the order as regional facilities. The regional council can also charge user fees to the cities or municipalities that benefit from these facilities.

- the provision of regional police services, ambulance services, animal and dog control, and other similar services within the region.
- the provision, subject to the *Urban and Rural Planning Act*, of regional planning and local area planning in areas outside the jurisdiction of towns and cities within the region.

To be flexible and account for the specific needs of each municipality, any other municipal responsibility listed in the *Municipalities Act* may be granted to the regional council through an agreement with individual municipalities, subject to the provision that the regional council can recover all costs of this service from that municipality. This model, therefore, does address the service characteristic of a regional model as discussed in section 2 of this paper, though there is not enough evidence to judge whether these services can be delivered efficiently and effectively.

Revenue: Despite having the ability to assume many of the responsibilities of a municipality, a regional council has very little capacity to tax residents of the region or to raise revenues. Section 36 of the *Municipalities Act* does give the regional council authority over taxation, assessment, levies, services, and controls. However these powers apply only to “those areas of a region under the jurisdiction of that council which are not a city or a town.”⁴⁹ This means that a regional council’s authority to tax is confined to LSDs and unincorporated areas within the region; the regional council has no authority to tax the residents of municipalities or cities. Given the imposed taxation limitations, it is difficult to classify this regional government model as self-reliant.

Representation: Regional councils are to be composed of elected or appointed officials. A town council may appoint a representative to the regional council while a representative from an LSD or unincorporated area must be elected. An election for the regional council must occur within one year of the council’s creation. At the first meeting of the regional council, councillors elect, by secret ballot, one chairperson who is the presiding officer of the regional council and the head of the region for ceremonial purposes. The regional council must hold at least one public meeting per month.

This regional government model would not infringe upon local identity, as each area within the region is represented. The regional council model is also accountable as all council members would be either directly or indirectly elected.

Evaluation: The most significant problem with the regional council model is that it has no mandated authority. All of its powers must be either granted by the province or by the municipality. As a result, it has no explicit purpose. The regional council model available under the *Municipalities Act* creates the weakest form of regional government.

The regional council model is weak because it is not mandatory. Because it is not mandatory, it cannot have any mandated powers or be a strong structure without requiring significant changes to the *Municipalities Act* or the governing structure of participating municipalities. Since it is not mandatory, the regional council model will never succeed. All other jurisdictions or theoretical models analyzed in this study established or recommended regional government for their entire jurisdiction. It seems that for regional government to work, it must have some purpose that requires its creation and requires that municipalities participate. With no explicit purpose and no requirement

⁴⁹ *Municipalities Act*, 1999 S.N.L. 1999, c. M-24, s. 36.

for its establishment over the entire province, Newfoundlanders and Labradorians only have the option of creating weak regional government.

The Functions of Regional Councils in Newfoundland and Labrador

Specific Powers:

Administration: A Regional Council performs all administrative functions for any area under its direct authority. The Council is composed of both elected and appointed representatives. A Regional Council is considered a municipality.

Management of Development: A Regional Council has land-use planning responsibilities for all areas under its direct authority if this responsibility is granted to the Council by the provincial government.

Regional Planning Development: A Regional Council has no regional planning authority unless it is granted such authority by the provincial government and the municipalities within the Regional Council region.

Taxation Ability: A Regional Council can tax and collect taxes from areas under its direct authority. A Regional Council has no authority to tax residents within another municipality without the consent of that municipality.

Common Services Provided to Municipalities and the Entire Region by the Regional Council

Regional Councils provide all municipal services to areas under its direct authority (typically former local service district or unincorporated areas), including the authority to establish tax rates and collect taxes. A Regional Council can also provide any municipal service to a municipality if the municipality consents to this arrangement.

Current service provided by the Fogo Island Regional Council to all of Fogo Island include:
 Management of the Islands dump
 Management of the Stadium
 Lead Council of Transportation Matters

A further weakness to the regional council model is its inability to tax residents of a municipality. This constraint puts political and financial pressure on both regional and municipal governments. Cost increases for regional services require a municipal government to raise taxes or fees, an often unpopular move that can impact the ability of a municipality to collect. This can only breed resentment for a regional government by a municipal government. A regional government with no authority to tax within a municipality results in the weakening of both the municipal and regional governments – municipalities appear as the collectors for a regional authority and the regional government looks like the employee of municipalities. There is also no mandatory fee payment arrangement in the *Municipalities Act* to compensate for a regional council's inability to tax residents of municipalities. As a result, a regional council has no means of ensuring it receives prompt payment from debtor municipalities.

Perhaps the most damning indictment of the Newfoundland and Labrador regional government model is that it has been used by only one set of municipalities in its thirty-year history. This poor rate of

adoption is not because the model is understood by too few municipalities; municipal leaders care greatly about their communities and have probably considered available alternatives to strengthen municipal capacity. After thirty years it is obvious that the current regional council model is not an attractive option for municipalities in this province.

B. The Whalen Commission Model

The regional council model currently available in the *Municipalities Act* was greatly influenced by the regional government model proposed in the 1974 Whalen Commission. Upon reading the Commission's report, however, it is apparent that the regional system recommended in 1974 was somewhat different from the one made available by the provincial government in 1979. According to the Whalen Commission, the purpose of regional government in the province should be to "incorporate the currently ineffective functions of many small municipalities without destroying the organizational fabric of community life nor denying local citizens their recently acquired rights of access and participation in local public affairs."⁵⁰ Though proposed with lofty intentions, the regional government system of the Whalen Commission fell short of this stated goal.

Powers: The Whalen Commission recommended the implementation of a regional government system for all of Newfoundland; to the Commission, regional government could not be established in Labrador due to difficult geography and low population levels. To avoid creating a weak regional structure, the Commission recommended that regions be given robust powers. However, the regional government model proposed by the Whalen Commission did not achieve this goal. Similar to the Newfoundland and Labrador regional council model, the regional government system proposed by the Commission could not undertake any municipal responsibility within the boundaries of a municipality without the express consent of that municipality. Therefore, a regional government could perform any service operated by a municipality, including land use planning and the collecting and levying of taxes, but only with the consent of a municipality. Because the Whalen Commission intended for regional government to be established across all of Newfoundland, the regional authority would serve as the direct level of government for all local service districts and unincorporated areas. As a result, the regional government would directly perform all municipal functions to these areas.

Thus, like the regional council model, the regional government model had no explicit purpose or powers vis-a-vis municipalities. To establish some relevancy within the municipal system, however, the Whalen Commission envisioned a regional government that "would establish area-wide standards," for municipal responsibilities like firefighting and zoning.⁵¹ To the Commission the actual administrative performance of these functions within municipalities would remain "a responsibility of elected municipal councils."⁵² Allowing a regional government to establish standards would be unique in our province as there is no level of local government that can set standards that must be followed by another local government. Overall, the Whalen Commission thought that regional government should:

...provide major concentrations of technical and administrative strength at the regional level; they would clearly make possible a better integration of local and provincial administrative arrangements than exist at present; and they could, and should, ultimately displace many existing towns and local government communities when their capacity to deliver the required local

⁵⁰ The Whalen Commission, 536.

⁵¹ The Whalen Commission, 526.

⁵² The Whalen Commission, 526.

services at lower cost and at less inconvenience to the local ratepayer is demonstrated.⁵³

From the above it is evident that this model does meet the services characteristic required for a regional government. Considering that it is purely theoretical, however, it is impossible to assess whether the Whalen Commission model effectively and efficiently delivers services.

Representation: In the Whalen Commission model, all councillors on a regional council would be elected directly by the electorate. According to the Commission, direct elections would be necessary because the province has too many incorporated municipalities to establish an equitable system of indirect representation to a regional council. The Whalen Commission model recommended that a council be composed of between seven and fifteen members elected from single councillor constituencies with approximately equal populations. Constituencies would not have to conform to municipal boundaries and could include both incorporated and unincorporated areas.⁵⁴

A regional council in the Whalen Commission model would operate in much the same way as a municipality. Councillors would be elected for a four-year term, and each council could determine whether a chairperson would be elected by the councillors or by the electorate. A chairperson would have the same powers as a mayor, and it was the Commission's view that a regional system should not have a strong chairperson-weak council system of management.⁵⁵

The Whalen Commission model would provide for councillor accountability and would be straightforward and simple. Given that the Whalen Commission thought that Newfoundland and Labrador needed to move beyond the current single-tier structure, this model is unconcerned about local identity and seems more committed to facilitating new regional identities and direct electoral accountability for regional councillors.

Revenue: As the Whalen Commission model limited the ability of its regional government to tax residents of municipalities, the model is not self-reliant. The taxation powers of the Whalen Commission model would be the same as those of a municipality, though the ability to impose taxes would be confined to local service districts and unincorporated communities. Since it would not be financially self-reliant, the Whalen Commission suggested that its regional government model be funded by substantial regional incentive grants to be provided by the province. This regional incentive grant would "be the equivalent to one-half the annual cost of any regional authority's general legislative and administrative functions, its service coordination activities, and its various programs in respect of police, animal control, regional planning, ambulance services...and other functions with an area-wide scope."⁵⁶ This grant would not apply to the municipal services supplied by the regional council to LSDs or unincorporated areas, nor would it cover the costs of services conducted by the regional council through an agreement with a municipality.⁵⁷ Rather, the regional incentive grant would be almost entirely spent on running the regional council and providing administrative support to communities in the region.

⁵³ The Whalen Commission, 523.

⁵⁴ The Whalen Commission, 531.

⁵⁵ The Whalen Commission, 532.

⁵⁶ The Whalen Commission, 369.

⁵⁷ The Whalen Commission, 370.

The Functions of the Whalen Commission's Regional Government

Specific Powers:

Administration: Regional governments under the Whalen Commission model would have direct administrative responsibility and would provide all municipal services to any area under its jurisdiction that was not within a municipal boundary. A regional government would be composed of only directly elected representatives.

Management of Development: The Whalen Commission's regional governments would be responsible for managing development in areas outside of municipal boundaries.

Regional Planning: The Whalen Commission's regional governments would have no regional planning authority unless municipalities within a designated region granted it such authority. The Whalen Commission's regional government, however, would have the capacity to set service standards that would have to be followed by other municipalities.

Taxation Authority: Regional governments in the Whalen Commission would have taxation powers for areas under their jurisdiction that were outside of municipal boundaries. Regional governments would not be able to tax any residents within a municipality.

Common Services Provided to Municipalities and the Entire Region by Under the Whalen Commission Model of Regional Government

Regional government under the Whalen Commission would have the authority to deliver any municipal service within a municipality only if that municipality agreed to such an arrangement. There were no region wide powers granted to the Regional Government.

Evaluation: The Whalen Commission model of regional government is moderately more robust than the regional council model available under the *Municipalities Act*: the Commission did recommend the implementation of regional government across Newfoundland and granted its regional government model the authority to establish municipal standards. Therefore, unlike the regional council model contained in the *Municipalities Act*, the Whalen Commission expected its regional government model to effect change within a region.

However, the Whalen Commission model contains many of the same problems that exists with the regional council model. First, it grants too few powers directly to the regional government, which turns it into an empty-shell organization - the boundaries of the structure exist but internally it lacks authority. Second, it makes little effort to be self-reliant. In the current economic environment there is no way that a regional government system could be created if the province was expected to fund half of its operating costs every year. The Whalen Commission model is the product of a time when the provincial government was eager to funnel money to the local level. This is no longer the case.

With that said, the Whalen Commission model is very important because of the rationale behind its creation. The Commission recognized in 1974 that the current municipal system was unsustainable and that a new structure needed to be created to build capacity. The idea that a regional government should

focus on setting municipal standards is significant as it creates a level of oversight in the municipal system that the Department of Municipal Affairs is unable to provide. There are too few monitoring systems for municipalities and a regionally created and popularly elected body would carry significant weight in establishing municipal benchmarks.

C. The British Columbia Model

The municipal structure in British Columbia is somewhat different from Newfoundland and Labrador's. British Columbia has 160 municipal units: 40 villages with populations of less than 2500, 17 towns with populations between 2500 and 5000, 48 district municipalities, which are large geographic areas with low population density, and 49 cities that have populations of greater than 5,000. These 160 municipal units are then divided into 27 regional districts.⁵⁸

Much has been written about the British Columbia model of regional government. It is thought to be one of the most flexible and fair regional government models in North America. It also happens to be amongst the oldest, having first been established in 1965. The British Columbia *Local Government Act* and *Community Charter* govern the province's municipal and regional governments. The legislative foundation for regional government in British Columbia is confusing and long, and proper justice cannot be given in this relatively small space. A brief outline, however, should suffice to discuss the merits of British Columbia's regional government model.

Regional units in British Columbia are not geographically or demographically uniform. The geographic size of regional units ranges from 730 square kilometers to 208,601 square kilometers, while population sizes range from a few thousand people to well over a million people.⁵⁹ Outside the metropolitan areas, the boundaries of the regions were established by central government officials, "mainly in terms of 'trading areas', with due regard for communication patterns, adequate assessment bases, and suitable populations."⁶⁰ Internal district boundaries for electoral areas in the unincorporated areas were designed to account for local communities of interest. Within the metropolitan areas, the external boundaries of regions were fitted to existing boundaries established by utility bodies.⁶¹

Powers: Regional districts were established to undertake activities mandated by the provincial government and to perform local functions that were decided upon by locally elected officials. At the time of their establishment, regions were prescribed only one provincial mandate – planning for development. All regional boards had to supervise and approve general regional plans and settlement plans for all areas outside municipal boundaries. As for incorporated municipalities, they

⁵⁸ Patrick J. Smith and Kennedy Stewart, "British Columbia," in *Foundations of Governance: Municipal Government in Canada's Provinces*, eds. Andrew Sancton and Robert Young (Toronto: University of Toronto Press, 2009), 285

⁵⁹ Robert L. Bish, *Local Government in British Columbia* (Richmond: Union of British Columbia Municipalities; Victoria: University of Victoria, 1987), 33. [Hereinafter "*Local Government in British Columbia*"].

⁶⁰ The Whalen Commission, 473.

⁶¹ The Whalen Commission, 473.

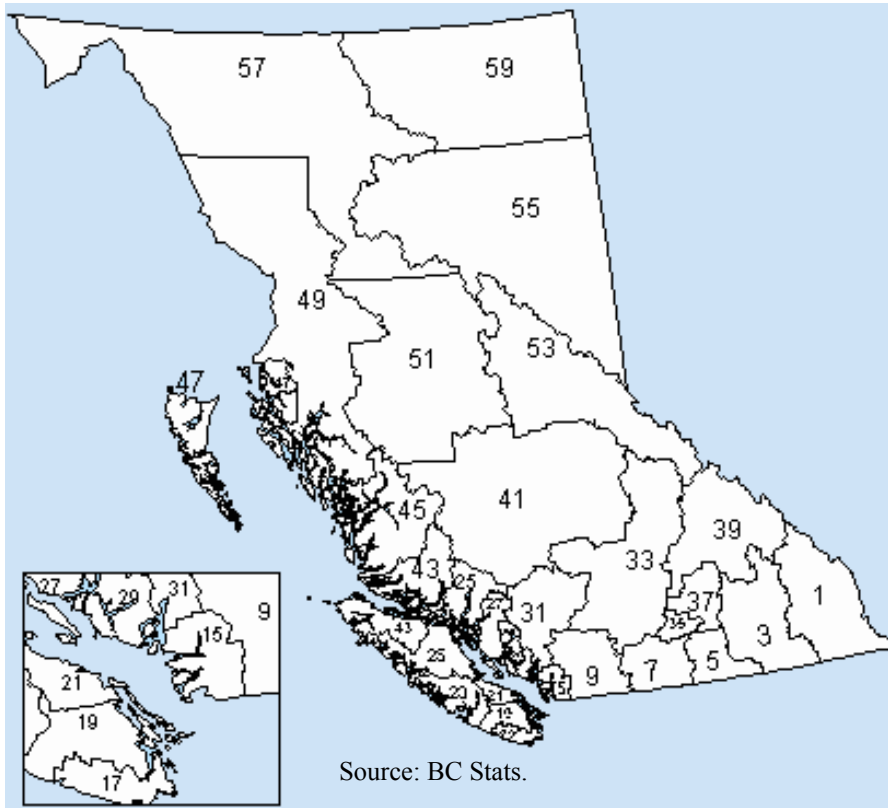
prepared their own individual plans, called official community plans, which were to be consistent with general regional district plans.⁶²

In 1983, the planning function of regional governments changed in British Columbia. According to municipal scholar Robert Bish, this change was made for two reasons. First, allegations were being made that regional plans were being used by some municipalities to control development in other municipalities. This sort of accusation would cast suspicion on all regional planning efforts. The second reason was that regional plans were essentially a duplication of settlement and community plans, and hence were redundant and wasteful.⁶³ Although this second justification may be valid in British Columbia, it would not be applicable in Newfoundland and Labrador given the poor state of municipal planning in this province.

The original planning functions of regional governments in British Columbia required each regional board to create a technical planning committee for the entire region and an advisory planning commission for each settlement planning area. The technical planning committee was composed of the regional district planning director, a medical health officer, a municipal employee from each municipality, and representatives of provincial ministries, crown agencies, school boards, and federal

ministries. This committee advised all local settlement plans and general regional plans while serving as a liaison to other governments, particularly the provincial government in the region.⁶⁴

Advisory planning commissions were composed of citizens appointed by the regional council at the recommendation of the regional director of an area. The advisory planning commission served a single electoral area (the B.C. equivalent of an LSD or unincorporated area) and gave advice on planning and land use matters. These commissions were viewed as an opportunity for



⁶² Bish, *Local Government*, 36-37.

⁶³ Bish, *Local Government*, 37.

⁶⁴ Bish, *Local Government*, 37.

citizens to participate in local planning.⁶⁵ Technical planning committees and advisory planning commissions are good ideas for Newfoundland and Labrador. They allow input from a broad range of local stakeholders, and could assist in integrating planning into other aspects of government, such as economic development and service delivery.

In the mid-1990s, some planning responsibilities were once again granted to the regional government in the form of regional growth strategies. The purpose of a regional growth strategy is to move beyond the traditional planning spectrum of land use development and transportation. A regional growth strategy is similar to an Integrated Community Sustainability Plan (ICSP), as it must have at least a 20-year vision that considers the economic, social, and environmental future of the region.⁶⁶ A regional growth strategy cannot be imposed on a municipality. Rather, any municipalities affected by the plan must be consulted in the planning process and must pass a motion to formally adopt the plan.⁶⁷

With most planning functions removed, regional governments in British Columbia are primarily involved in providing services to the regions and specific communities. Section 796 of the *Local Government Act* states that “a regional district may operate any service that the board considers necessary or desirable for all or part of the regional district.”⁶⁸ The regional board is also given wide authority to regulate services within a region, including regulating services within a municipality.⁶⁹

The attractiveness of the British Columbia regional government model lies in its flexibility to deliver services to participating municipalities. For a regional government to operate a municipal service, it requires the consent of the affected municipalities and electoral areas. Once this consent has been received, the regional government must pass a by-law establishing its authority to provide the service and the arrangement must be approved by the provincial government.⁷⁰ The refusal of a municipality to allow a regional government to provide a specific service does not defeat a regional service initiative; instead, the dissenting municipality is exempted from receiving that particular service and from contributing to its cost. Municipalities are also given the right to monitor the regional government’s service delivery performance since a municipality has broad authority to initiate service arrangement reviews to help determine whether the service is being properly delivered. Service review procedures are set by the regional government.⁷¹

One of the major advantages of having a flexible regional government is that the cost of negotiating new service partnerships is kept to a minimum. In the more than 40-year history of regional government in British Columbia, more than 2000 inter-local service partnerships have been formed.⁷² Most regional boards provide between 50 to 100 services through powers that are

⁶⁵ Bish, *Local Government*, 38.

⁶⁶ *Local Government Act*, R.S.B.C. 1996, c. 323, s. 850.

⁶⁷ Bish, *Local Government*, 4th ed., p. 160.

⁶⁸ *Local Government Act*, R.S.B.C. 1996, c. 323, s. 796.

⁶⁹ Bish, *Local Government*, 4th ed., p. 50.

⁷⁰ *Local Government Act*, R.S.B.C. 1996, c. 323, s. 796.1(1)(a) and s. 800(1).

⁷¹ Bish and Clemens, *Local Government*, 4th ed., 50.

⁷² Government of British Columbia, Ministry of Community Services, *Local Government Excellence*, 16.

borrowed from municipalities after a period of negotiation. These services range from economic development to lighting to sign regulation.

The Functions of British Columbia's Regional Districts

Specific Powers:

Administration: General, electoral area, local community commissions, feasibility studies, grants, and assistance.

Management of Development: official community planning, land use regulation, board of variance, heritage planning, sign regulation, subdivision control, social planning.

Regional Planning Services: regional growth strategy, coordination, and analysis.

Taxation Ability: Confined to residents who reside outside of municipal boundaries. No ability to directly tax residents of municipalities.

Common Services Provided to Municipalities and the Entire Region by the Regional District

Animal Control	Emergency Telephone
Sewage Collection	Arenas
Fire Protection	Sewage Treatment
Building Inspection	Garbage Disposal
Street Lighting	Building Numbering
Noise Regulation	Cemetery Operations
Pest Control	Local Parks
Recreation	Emergency Programs
Recycling	

The British Columbia model definitely meets the service characteristic of a regional government. It is also evident, given the success of the model in pursuing, creating, and executing service sharing agreements, that regional government in British Columbia is perceived as being effective and efficient in service delivery.

Revenue: Regional governments do not have the power to directly tax residents of the municipalities within a region, which is practical considering that regional governments have few prescribed powers and provide different services to different areas of a region. A property tax system to account for these differences would be far too difficult to manage. Nonetheless, creating regional budgets is a complex process. The regional district must calculate the exact expenditure for each service in each area. But as Bish notes, this complex process has significant benefits as it allows elected officials to compare the costs and benefits of various services to a degree that is not permitted in the municipal budgetary process.⁷³ And though the regional board cannot collect taxes, it does have

the authority to set the property tax rate that is needed to cover the cost of regionally-delivered service.⁷⁴

To ensure prompt payment from municipalities and electoral areas that benefit from regional services, there are strict and specific guidelines for the transfer of funds between municipal and

⁷³ Bish, *Local Government*, 4th ed., 55

⁷⁴ *Local Government Act*, R.S.B.C., 1996, c. 323, s. 800.1(e)

provincial governments and the regional bodies. Section 805 of the *Local Government Act* provides that, “On or before April 10th of each year, the designated regional district officer must send to each municipality a requisition in respect of each service stating the amount required from the municipality for the service during the year.”⁷⁵ Municipalities must satisfy this debt to the regional government on or before August 1st of that year. There are also constraints on how this debt must be paid, as municipalities must collect the required funds through either their property value tax or parcel tax;⁷⁶ provincial government grants to municipalities cannot be used to satisfy the debt.

For areas within the region that are outside municipal boundaries, the regional district must present by April 10th of each year to the Surveyor of Taxes – part of the provincial government – a requisition stating the cost of the services to be provided to that region in the upcoming year. Once this requisition has been delivered, it is the responsibility of the provincial government to collect this amount from unincorporated areas through either the imposition of a property value tax or a parcel tax or by way of a government grant. The amount stated in the requisition must be paid to the regional district by the provincial government on or before February 1st of each year.

This framework is successful in British Columbia because, as one source notes, its local government system is “unusual in Canada because of the culture of collaboration among governments and agencies.”⁷⁷ And though the system is strict, it minimizes the tension between the regional and local governments over the timely collection of payment for services rendered. As they are unable to raise their own revenue, British Columbia regional governments are not self-reliant. With that said, the *Local Government Act* provides adequate structures and rules to safeguard the regional governments against non-payment by municipal councils on which it depends for revenue.

Representation: The regional system in British Columbia is exceptional because of its democratic principles. Establishing a strong democratic framework within regions was not simple; instead it developed over the years through slight modifications, which added various protections to communities. The structure of all regional districts is similar. There is a governing board composed of both elected municipal councillors appointed to the board by their municipal councils and independently elected members from electoral areas outside of incorporated municipal boundaries.⁷⁸ All regional district board members are classified as directors.

The regional district boards are also instrumental in establishing a form of representative government in areas outside of municipalities. Since 1987, the regional districts have been empowered to establish elected local community commissions for small settlements in unincorporated areas. These commissions are created by the regional district by passing a by-law, and are subject to acceptance by referendum from the affected community as well as the approval of the provincial government. A commission consists of the regional director for the area and four other community members who are popularly elected by the community’s residents. As a means of support, regional district staff provide assistance to community commissions for such functions as

⁷⁵ *Local Government Act*, R.S.B.C., 1996, c. 323, s. 805.

⁷⁶ *Local Government Act*, R.S.B.C., 1996, c. 323, s. 805.1.

⁷⁷ Government of British Columbia, Ministry of Community Services, *Local Government Excellence*, 13.

⁷⁸ Bish, *Local Government*, 34-35.

water supply, sewage, and garbage collection. Community residents finance this support by paying a property tax that is set and imposed by the regional government.⁷⁹

Determining the number of representatives per municipality or community on a regional board and the number of votes each board member can cast is complex. The number of directors on a board and the weight of their votes is determined by the region's voting unit. A voting unit refers to the number of people a director must represent to be granted one vote – in most districts it is 1500 people, thus a municipality with a population of 3000 would have two votes. Unincorporated areas are also subject to this calculation. To determine the number of representatives each municipality and unincorporated area will have on a regional district board, the number of votes for each municipality or unincorporated area is divided by 5. Therefore, in a community of 12,000 with a voting unit number of 1500 people, the community would receive 8 votes, which would then be divided by 5.⁸⁰ If the number derived from this calculation is not a whole number, meaning it is a fraction or decimal, the number of councillors is rounded up and the votes are distributed equally. In the example provided, the community would have 2 members on the regional board, each with 4 votes. In this manner, every municipality or area is assured of at least one seat on the regional district board.

The voting scheme for directors is also complex. For certain issues, such as by-laws for board business, establishing a regional service, and regulating services, each director is entitled to only one vote.⁸¹ For other matters, like passing by-laws setting the fee or charge for a regional service or for collecting property taxes in an electoral area, all directors can vote and can cast the number of votes assigned to them.⁸² With regards to regional services for specific areas or municipalities, only the directors from affected locales are allowed to vote and directors from unaffected areas or municipalities are forbidden from voting on the outcome. According to Bish, this creates “a system of representation and voting rules that requires a relatively high level of consensus for general regional board activities, while permitting sub-areas to decide upon and pay for services administered for their area by the regional government.”⁸³

The British Columbia model is not simple, but the complexity appears necessary to preserve a sense of fairness. There is accountability within the model, and the voting system ensures that board members are only accountable for decisions that affect their area. This model also does nothing to undermine local identities as all areas within the region have representatives, and the model is flexible enough to account for different identities within the region.

Evaluation: Overall, the British Columbia model serves as a good forum to make region-wide decisions and as a good provider for services that are regional in nature. Borrowing liberally from Bish, the following three comments sum up the strength of the British Columbia model:

⁷⁹ Bish, *Local Government*, 4th ed, 56.

⁸⁰ Bish, *Local Government*, 35.

⁸¹ *Local Government Act*, R.S.B.C., 1996, c. 323, s. 791(3).

⁸² *Local Government Act*, R.S.B.C., 1996, c. 323, s. 791(5).

⁸³ Bish, *Local Government*, 36.

- An important characteristic of the regional district system is an implicit assumption that local representatives know their own situation best and that, given this forum for cooperation, they will undertake activities for mutual benefit.⁸⁴
- Regional districts provide a systematic, authoritative, cost-effective framework for facilitating cooperation among local governments to provide services on a variety of scales and achieve relatively high levels of fiscal equivalence in the process.⁸⁵
- With regional districts, the same elected officials are responsible and make decisions regarding all local government functions, regardless of the level at which the activities are provided or produced. In short, the fact that a regional district's member municipalities appoint their directors helps reduce the competition and tension that marks the relationship between local and regional governments in other jurisdictions.⁸⁶

The above-mentioned strengths of regional government in British Columbia are in large part due to the model's significant flexibility, which prevents municipalities from being forced to accept or pay for services it does not want.

The British Columbia model is flexible and fair, but it could not be completely transplanted to the Newfoundland and Labrador environment. Regional government in this province needs to be able to conduct local land-use planning and it needs to be able to directly tax and raise revenue from municipalities. Most municipalities in this province are not as organized as their counterparts in B.C. According to the 2007 MNL Municipal Census, 80 percent of municipalities indicate that they have serious problems collecting taxes owed to them, while 78 percent have resorted to using collection agencies to ensure that existing taxes are collected.⁸⁷ It is unreasonable to presume that municipalities that already face difficulties in collecting taxes to cover their own expenses will be able to collect taxes to make payments to a regional government.

Another concern with the B.C. model is the appointment system of municipal councillors on the regional boards. Considering that British Columbia has far fewer municipalities than this province it is easier to ensure that every municipality has a seat at the table. In Newfoundland and Labrador this may be impractical given the number of municipalities that exist; in our province a regional board composed in the B.C. mould would appear more like an assembly than a board. It may be necessary in this province to have a regional government council composed of directly elected representatives, as the Whalen Commission recommended.

The British Columbia appointment system also raises questions of loyalty and interest: is an appointed councillor representing the community he or she is appointed from or the regional district board on which he or she serves? This is an ongoing concern in British Columbia, and the Union of

⁸⁴ Bish, *Local Government*, 61.

⁸⁵ Bish, *Local Government*, 62.

⁸⁶ Bish, *Local Government*, 62.

⁸⁷ MNL, *Census of Municipalities*, 37.

British Columbia Municipalities has addressed the issue in a discussion guide.⁸⁸ Nonetheless, the B.C. model remains a viable option for Newfoundland and Labrador. It is a flexible and fair regional government model that respects local autonomy and pursues and protects the best interests of municipalities.

D. The Quebec Model

The geographic and demographic make-up of Quebec is in many ways similar to Newfoundland and Labrador. Like this province, Quebec has a significant number of municipalities – 1414 – most of which are small. The threshold population for urban municipalities in Quebec is 10,000 and only 125 municipalities – almost 9 percent – meet this requirement.⁸⁹ In Newfoundland and Labrador, we have 281 municipalities, and though our urban threshold requires a population of 4000, only 24 towns or cities – 8.5 percent – meet this requirement.

Unlike Newfoundland and Labrador, Quebec does have a system of regional government. The Quebec system of regional government is quite complicated, as there are actually three separate levels of regional government - Agglomeration Councils, Regional County Municipalities, and Metropolitan Communities. For the purposes of this study, the focus will be the Regional County Municipality (RCM), as this system of regional government best fits the demographic and geographic characteristics of Newfoundland and Labrador.

Created in 1979, there are currently 86 RCMs in place throughout all of Quebec.⁹⁰ There are also 14 cities that function as RCMs and have all the authority and responsibility of the regional body.⁹¹ The geographic area of RCMs range from as large as 67,000 square kilometers to just over 100 square kilometers. More than half of all RCMs serve a population of under 25,000.⁹²

There are three different types of RCMs: urban, mixed urban and rural, and rural. According to Hamel, establishing different classes of RCMs was:

...intended to produce municipal organizations with the capacity to assume additional roles and responsibilities within their respective regions that would improve the ability of local

⁸⁸ See, Union of British Columbia Municipalities, “Discussion Guide 1, Promoting Interest: Whose Interests Should Directors Promote at the Board Table,” available through Union of British Columbia Web site under “Resources & Links,” “Documents,” “Publications,” and “RD Toolkit.” <http://www.ubcm.ca/assets/library/Publications/RD~Toolkit/UBCM-dg1-interest.pdf>. (accessed March 2010).

⁸⁹ Louise Quesnel, “Municipal Reorganisation in Quebec,” *Canadian Journal of Regional Science*, 20:1 (200) 117.

⁹⁰ Pierre Hamel, “Municipal Reform in Quebec: The Trade-off between Centralization and Decentralization,” in *Municipal Reform in Canada: Reconfiguration, Re-Empowerment, and Rebalancing* (Don Mills: Oxford University Press, 2005), 156-157. [Hereinafter “**Municipal Reform in Quebec**”].

⁹¹ Belley, Bherer, Chiasson, Collin, Hamel, Hamel, Rivard, and Archambault, “Quebec,” in *Foundations of Governance: Municipal Government in Canada’s Provinces* (Toronto: University of Toronto Press, 2009), 76. [Hereinafter “**Quebec**”].

⁹² Robert Gravel, *Les Institutions Administratives Locales et Regionales au Quebec: Structures et Fonctions* (Sainte-Fay, QC: Presses de l’Universite du Quebec, 1999), 46.

governments to deal with the services and development needs and preferences of their respective communities within the parameters of the fiscal constraints that confront them.⁹³

Creating distinctions between the geographic and population areas covered by an RCM is prudent and recognizes the real differences between rural and urban areas.

Powers: RCMs, for the most part, have uniform powers in Quebec and are directly responsible for certain services within a region. First, similar to regional government in British Columbia, an RCM acts as a municipal government for communities and villages that are unincorporated or fall outside of a municipal boundary. For these areas, the RCM performs all responsibilities, from service delivery to tax assessment and collection.

On a regional level, an RCM is responsible for creating a regional land use and development plan. This plan must determine the general aims of land development for the territory and determine land use policies for different areas of the region.⁹⁴ The authority accompanying this responsibility is quite broad and includes delimiting urbanization perimeters, identifying flood and erosion zones, and describing and planning the organization of land transport.⁹⁵ The plan must include a document estimating the cost of the inter-municipal services and infrastructure proposed in the plan, as well as a list of all potential partners, both municipal and provincial.⁹⁶ Once this plan is created, all municipalities within an RCM region have 24 months to bring their plans into compliance with the RCM plans.⁹⁷

Other powers exclusive to an RCM are the management and regulation of watercourses within its jurisdiction and the maintenance of certain roads and bridges.⁹⁸ With regards to energy, an RCM may operate a hydro-electric plant or wind farm.⁹⁹ An RCM is also able to pursue economic development opportunities by providing assistance to private sector enterprises and not-for profit organizations, matching municipal funding for local development centres, and providing or lending money to investment funds used to provide assistance for start-up enterprises.¹⁰⁰

The powers of RCMs differ, however, with regards to property assessment. For both urban and rural-urban RCMs, the regional government cannot assess any property within a municipality governed by the *Municipal Code* or *Cities and Towns Act*. As for the fifty RCMs designated as rural, they have the responsibility to assess all property, including municipal property within their regions.¹⁰¹

⁹³ Hamil, "Municipal Reform in Quebec," 157.

⁹⁴ *Act respecting Land use planning and development*, R.S.Q. c. A-19.1, s. 5(1) and (2).

⁹⁵ *Act respecting Land use planning and development*, s. 5.

⁹⁶ *Act respecting Land use planning and development*, s. 7.

⁹⁷ *Act respecting Land use planning and development*, s. 34.

⁹⁸ *Municipal Powers Act*, R.S.Q. c. C-47.1, s. 103 and 110.1.

⁹⁹ *Municipal Powers Act*, s. 111.

¹⁰⁰ *Municipal Powers Act*, s. 122-s.126

¹⁰¹ Belley, et al, "Quebec," 129, see endnote 25.

More recently, RCMs have been given the authority to manage new responsibilities, such as waste management, policing, fire protection, and social housing.¹⁰² RCMs can also provide services traditionally within the jurisdiction of municipalities if a majority of the members of the RCM council vote in favour of such action.¹⁰³ The Quebec model does meet the service characteristic of a regional government. It is unclear how efficient and effective services are delivered, but considering that RCMs continue to acquire new services, it appears that the Quebec government believes that RCM service delivery is more effective and efficient than municipal service delivery.

Revenue: RCMs do not have the power to directly tax residents of municipalities. Similar to B.C., an RCM imposes levies on municipalities within their region that benefit from RCM-provided services. But payments made by a municipality to an RCM are not based exclusively on usage, rather the payment amount is established by the capacity of a municipality to generate revenue. The ability to generate revenue is measured by a municipality's property tax base. This arrangement results in a form of fiscal equalization within the region because wealthy municipalities likely pay for a share of services that is disproportionate to their rate of consumption of these services.¹⁰⁴ RCMs also receive financial support from the government of Quebec to help pay for waste management and fire protection, two new RCM responsibilities. This new financial support program provides funding directly to the regional body.¹⁰⁵

Like the B.C. model, the Quebec model is not self-reliant. However, the method of payment from municipalities to RCMs ensures that those with the greatest ability pay, pay the most. This does minimize the stress of collection and disputes regarding fees based on how much a service is used. This arrangement, though, does require municipalities to be considerate of the financial condition of other municipalities.

Representation: An RCM is administered by a council that is composed of mayors from each of the municipalities within the RCM region and representatives from councils of unincorporated community committees. Each RCM council is chaired by a commissioner, who is either elected by the RCM council at the first meeting or elected at large by the electorate. As the commissioner is only permitted to vote when there are tied votes, most RCMs prefer to have their commissioner popularly elected. RCM council meetings must be held at least every two months, with one mandatory meeting in November when an annual budget is adopted.¹⁰⁶

Like British Columbia, RCMs have a weighted voting system with each council member having a certain number of votes in accordance with the population they represent – the larger the population, the more votes a council member possesses. With the exception of assuming control over services provided by a municipality, decisions on the regional council are passed by a simple majority vote.¹⁰⁷ This means that a majority of councillors is not needed to pass a motion so long as

¹⁰² Hamil, "Municipal Reform in Quebec," 157-161

¹⁰³ Gravel, *Les Institutions Administratives*, 46, 49.

¹⁰⁴ ICURR, *Cost Sharing in Canada and in the United States: Selected Examples and Observations*, 2. Available at <http://www.assembly.ab.ca/lao/library/egovdocs/2007/ca6/cua/164043.pdf>.

¹⁰⁵ Hamil, "Municipal Reform in Quebec," 157-161.

¹⁰⁶ *Municipal Code of Québec*, R.S.Q. c. C-27.1, s. 148.

¹⁰⁷ Hamil, "Municipal Reform in Quebec," 157.

The Functions of Quebec's Regional County Municipalities

Specific Powers:

Administration: RCMs administer municipal services to areas outside of municipal boundaries. An RCM has a head office and is composed of a mixture of directly elected and appointed officials.

Management of Development: An RCM is responsible for land use development for areas outside of municipal boundaries. It also facilitates economic development by providing funding for specific initiatives.

Regional Planning Development: Each RCM establishes a development plan that determines the general aims of land development for the region and determines land use policies for different areas of the region.

Taxation Ability: RCMs have no capacity to tax residents of municipalities. Rather, they can impose a levy on municipalities that benefit from RCM provided services.

Common Services Provided to Municipalities and the Entire Region by the Regional County Municipality

An RCM can deliver municipal services within a municipality with the consent of the participating municipality. RCMs can also be responsible for delivering the following services:

Fire Risk Coverage	Establishing and Managing Regional Parks
Local Road Management	Watercourse Management
Public Transportation Management	Regional Sports and Recreation Facilities
Public Housing	Real Estate Assessment (Rural RCMs only)
Economic Development	Management and Planning for Waste Management

the councillors in favour possess enough votes in the weighted system to win a majority. Also like the British Columbia model, the entire RCM council does not vote on every matter. If a set of municipalities make an agreement with an RCM to carry out a municipal service within their boundaries, only RCM council members from the affected municipalities can vote.¹⁰⁸

The RCM system is simple - majority vote prevails. The number of votes given to each representative is somewhat complex, but this is necessary to guarantee equality on the regional body. The Quebec model promotes accountability as all regional councillors are elected at the local level and all municipalities and unincorporated areas are represented. Given the manner in which a regional council is stocked, the RCM model also does nothing to infringe upon local identity.

Evaluation: There are many positives to the RCM system that should be considered in this province. First, distinguishing between three different kinds of regions avoids the necessity of establishing a

¹⁰⁸ *Municipal Code of Québec*, s. 569.0.1(2).

one-size-fits-all approach to regional government. Given the differences between regions in Newfoundland and Labrador this sort of approach to regional government may be necessary. The Quebec model also shows that regional government can work with relatively small populations; an established region of 25,000 people is just as viable as a region of several hundred thousand people. The composition of RCM councils should also be considered in this province. By granting a seat on council to each municipality, RCMs function with large councils, in some cases of more than 20 councillors. It may be necessary for councils in this province to be composed in a similar manner.

Like the British Columbia model, the most significant concern with RCMs regards revenue collection and self-sufficiency. It is doubtful that municipalities in Newfoundland and Labrador would accept paying a regional government service fee based entirely on a municipality's ability to generate revenue and not based on how much that service was used by a municipality. As well, the Quebec government appears willing to subsidize a regional system. These two facts seem to reflect a specific Quebecois culture with regards to governance and the equalization of resources. It is unclear whether this culture exists in this province.

E. The Nova Scotia Model

In discussions with various municipal leaders and government officials regarding the content of this study, many expressed a desire to adopt a form of county government similar to the one in place in Nova Scotia. As a result, the Nova Scotia model is included in this study as a regional government model. What is clear is that the county system in Nova Scotia is not a regional government, but a system of large municipalities with groups of communities within them. The county system, for many areas of Nova Scotia, is the only form of local government. County government is local government in Nova Scotia and has changed little in more than 150 years.

Formal county government in Nova Scotia first emerged when the colony adopted responsible government in 1848.¹⁰⁹ Prior to this time, Sessional governments, overseen by magistrates or justices of the peace, administered governmental and legal services to communities throughout their designated regions. County government was more inherited than locally developed since it was strongly influenced by settlers moving to the area from Virginia and New England, places where county government was already established.¹¹⁰

After the enactment of the 1879 *County Incorporation Act* and the 1888 *Towns Incorporation Act*, many regions throughout Nova Scotia were incorporated as counties, and some of the larger communities were incorporated as towns.¹¹¹ What is important to realize is that both counties and towns were granted the same municipal status. This remains true today. Though all towns in Nova Scotia exist within a county, town councils serve their town's residents only, while the county councils serve the residents within the county that do not reside in an incorporated town. Incorporated towns have

¹⁰⁹ J. Murray Beck, *The Evolution of Municipal Government in Nova Scotia: 1749-1973* (Royal Commission on Education, Public Services and Provincial-Municipal Relations, 1973), 15. [Hereinafter "*The Evolution of Municipal Government*"].

¹¹⁰ Beck, *The Evolution of Municipal Government*, 7

¹¹¹ Beck, *The Evolution of Municipal Government*, 28.

their own municipal councils and deal with issues independent of their county. Unincorporated communities receive services from their county administrative body.¹¹²

There are three municipal structures in Nova Scotia's county system: the county, the region, and the town. Currently, there are 18 counties in Nova Scotia that together encompass the whole province, including all incorporated towns and unincorporated areas. Nine of the 18 counties are incorporated as municipal units for their entire county whereas 6 are divided into two rural districts, which are governed by their own councils. The remaining 3 counties – Cape Breton Regional Municipality, Halifax Regional Municipality, and the Region of Queens Municipality – were established as regional municipalities in the 1990s. In creating the regional municipalities, all villages, towns, and cities in each county were amalgamated with their county and are now governed by a single-tier municipal council.¹¹³

While Nova Scotia's county government appears to be regional, in reality it is a municipal government system. County government is local government in Nova Scotia, even in the 3 regional municipalities. Counties are large municipalities spread over wide geographical areas and provide municipal services to many groups of communities. This fact must be kept in mind by Newfoundland and Labrador advocates of the Nova Scotia regional government model.

Powers: The 1998 *Municipal Government Act* establishes the powers legally available to municipal councils. As there are no legislative differences between the powers available to counties and municipalities, county councils have the same responsibilities to their unincorporated communities as town councils have to their own incorporated municipalities. County councils and towns alike provide fire protection, waste management, water and wastewater services, snow removal, planning and economic development. Any differences that exist between services provided by a county or town are primarily the result of different revenue generating capacities. For instance, the Halifax Regional Municipality can provide many types of services far more efficiently than a rural town can, simply because Halifax has access to greater resources.

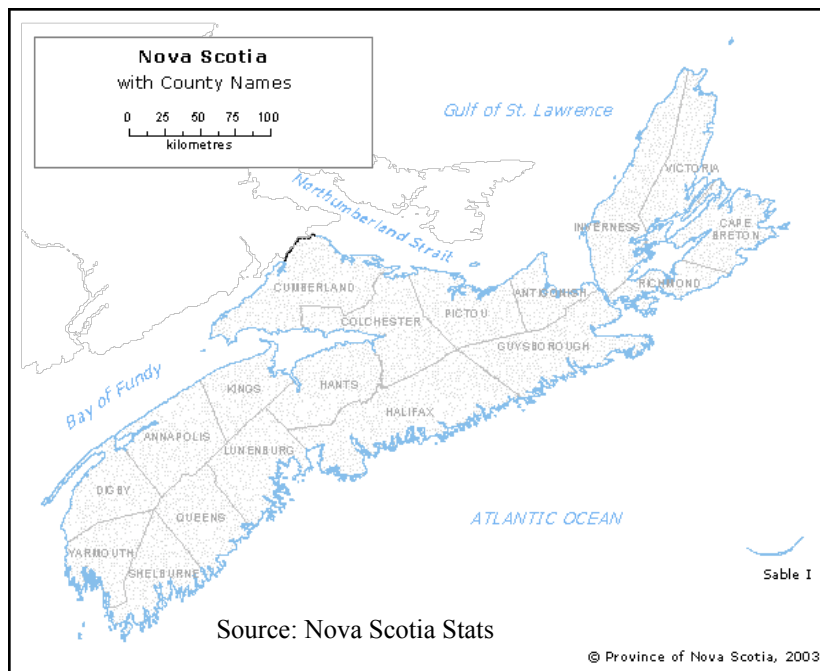
As there is no difference between the authority of a county council and a municipal council, it is difficult to judge whether the Nova Scotia model is a more efficient form of local government. In fact, numerous provincially appointed commissions and task forces have concluded that Nova Scotia's municipal system breeds inefficiency. The 1947 Rowat Report and the 1974 Graham Commission both called for drastic municipal reform in order to improve the effectiveness and efficiency of municipal service delivery in Nova Scotia. Certain inefficiencies within Nova Scotia's county government have existed for some time and are related to the unnecessary duplication of services whereby you "have municipal and county plows passing each other, one with the blade up because it wasn't his road to plow."¹¹⁴ It is interesting to note that one of the main recommendations of the Rowat report was for the government of Nova Scotia to create a regional government

¹¹² David M. Cameron and Paul A. R. Hobson, "Nova Scotia," in *Foundations of Governance: Municipal Government in Canada's Provinces*, eds. Andrew Sancton and Robert Young, (Toronto: University of Toronto Press, 2009), 138. [Hereinafter "Nova Scotia"].

¹¹³ Cameron and Hobson, "Nova Scotia," 138.

¹¹⁴ Al Smith as quoted in Stewart, Ian, "The Dangers of Municipal Reform in Nova Scotia," *The Savage Years: The Perils of Reinventing Government in Nova Scotia*, eds. Peter Clancy, James Bickerton, Rodney Haddow, and Ian Stewart (Halifax: Formac Publishing Company, 2000), 201.

system.¹¹⁵ Nova Scotia's county government seems prone to service duplication, as no appropriate distinction between county and town powers exists.



Revenue: Since Nova Scotia has no level of regional government all municipalities share the same fiscal responsibilities and powers. Sources of revenue for both municipalities and counties are therefore similar. While county councils are responsible for levying and collecting business and property taxes in unincorporated communities and districts, towns are responsible for collecting these same taxes from their own jurisdictions. Municipalities and counties also levy protective service rates, which pay for services like fire protection.¹¹⁶ Provincial transfers also add to municipal coffers, but transfer amounts vary due to municipal need – economically

strong municipalities, such as Halifax, contribute to equalization funds from which weaker municipalities benefit.¹¹⁷

Representation: While Nova Scotia's counties and towns share the same municipal powers and revenue responsibilities, there are several differences regarding their election procedures. Municipal elections in Nova Scotia are held every four years on the third Saturday in October.¹¹⁸ All councils are to be composed of a minimum of three representatives and a mayor, or warden as is the case for county or district councils.

Though municipal councillors are elected within their appropriate polling districts, there are slight differences between the elections of mayors and wardens. While a town or regional municipality mayor is elected at large, a county warden is selected from the elected councillors at the first council meeting of a new term.¹¹⁹ To choose a county warden, the elected representatives vote among themselves to determine which one of them will sit as warden. Until a person is agreed upon, the town clerk presides over the meetings. If a county council does not reach an agreement on a new

¹¹⁵ Cameron and Hobson, "Nova Scotia" p. 142.

¹¹⁶ Cameron and Hobson, "Nova Scotia," p. 155.

¹¹⁷ Cameron and Hobson, "Nova Scotia", pp. 154, 155.

¹¹⁸ Cameron and Hobson, "Nova Scotia", p. 172.

¹¹⁹ *Municipal Government Act*, S.N.S. 1998. c. 18, s. 1. 10 (1), (2), 11 (1), (2).

warden, the clerk will appoint one of the top two candidates to fill the position.¹²⁰ Unlike towns and regional municipalities where a mayor is elected for a four year term, county municipalities have the ability to change their warden mid-term. If a majority of councillors agree to remove the warden from office during a regular term, the council is allowed to proceed and elect a new warden to the position.¹²¹ Despite these subtle differences in town and county election procedures, it is important to keep in mind that these elections are local government elections for Nova Scotia, and no separate regional council exists that is composed of both county and municipal representatives.

Though municipal elections in Nova Scotia are similar to those in Newfoundland and Labrador, representation within the Halifax Regional Municipality (HRM) offers an interesting exception. The legislation that established the HRM allowed for 6 community councils to be created to represent the 6 sub-regional areas within the municipality. The numbers of councillors on these councils vary from 3 to 6, and councillors are responsible for bringing the interests and concerns of their sub-regional constituents to the attention of the regional municipal council. Consequently, as these councils possess no voting power on the HRM's council, sub-councils in the HRM are limited to an advisory role.¹²² While this HRM sub-council model has not been replicated throughout the entire province, it does reflect a faint regional structure that is not available in other counties. However, while residents of the HRM seem to have access to greater theoretical representation, there exists

The Functions of Nova Scotia's Counties

Specific Powers:

Administration: Counties performed the same administrative functions as municipal governments and have a county council composed of elected representatives.

Management of Development: A county has the responsibility of conducting land-use planning for all areas within the county that are not within municipal boundaries.

Regional Planning Development: Counties have no regional planning authority outside of general land-use planning for their specific county area.

Taxation Ability: Counties have the ability to directly tax all residents within their area that reside outside of municipal boundaries.

Common Services Provided to Municipalities and the Entire Region by the County Government

There are no specific arrangements in place for service sharing between municipalities and counties. Such arrangements may exist, but they are created in much the same ways as service sharing arrangements are forged in Newfoundland and Labrador. Counties do not serve as umbrella organizations that facilitate service sharing.

¹²⁰ *Municipal Government Act*, S.N.S. 1998. c.18, 12 (1), (3), (4), (5).

¹²¹ *Municipal Government Act*, 12 (7).

¹²² Cameron and Hobson, "Nova Scotia," 177

only one level of decision-making power – the regional municipal council – and therefore sub-regional councils have no actual authority.

Evaluation: It is difficult to see how the Nova Scotia model would work in Newfoundland and Labrador. To apply the Nova Scotia system in this province would require a complete reconstruction of the province's municipal government. Specifically, such a task would call for the amalgamation of perhaps 200 municipalities and over a 100 LSDs and unincorporated communities into a few dozen counties. Complicating the process would be the fact that the major communities in a region - such as Gander, Clarenville, and St. Anthony - would remain as incorporated municipal entities distinct from their host county. As these are the service and economic centres of their region, this development would be economically counterproductive. Bundling many small and weak communities together under one enormous municipal boundary would not increase the feasibility of these regions. It is unlikely that such a mass amalgamation has ever occurred in Canada and would likely face significant resistance if ever proposed.

The county model was historically the first, and in some cases the only, system of local government available to Nova Scotians. It has not developed from contemporary municipal reform, and like the municipal structure in Newfoundland and Labrador, has resisted most attempts at change. The Nova Scotia model is particular to its jurisdiction and would likely not be transferable to another province. Since county government in Nova Scotia is not regional government, the Nova Scotia model should not be a serious consideration for Newfoundland and Labrador.

F. New Brunswick - The Finn Commission Model

Local government in New Brunswick is administered by three structures: municipalities, Local Service Districts (LSDs), and rural communities. Of the current 101 municipalities, 8 are cities, 27 are towns, and 66 are villages. There are 3 rural communities and 267 LSDs. In total, New Brunswick has 371 governmental structures at the local level.

The populations of these governmental units vary. The majority of New Brunswick's 729,997 people reside in municipalities, whereas more than a third live in unincorporated areas.¹²³ Sixty-nine of the 101 municipalities have fewer than 2,000 residents and 182 of the 267 LSDs have a population of less than 1,000.¹²⁴ Given these demographics, many local government structures operate with poor tax bases and limited revenue raising capacities.

In recent years the government of New Brunswick has struggled with the economic viability of maintaining its current municipal system. As the 2007 government-appointed *Self-Sufficiency Task Force* concluded, "the current size and number of local government bodies within the province do not provide the local governance capacity to face the challenges of the future."¹²⁵ In response to such findings, the government of New Brunswick appointed Jean-Guy Finn to lead a study of local

¹²³ The Finn Commission, 28

¹²⁴ Government of New Brunswick, "New Brunswick Context," in *Local Government Resource Manual*, electronic resource. Available through Government of New Brunswick, Department of Local Government Web site under "Local Government Resource Manual" and "Section 1: New Brunswick Context," <http://www.gnb.ca/0370/0370/0003/pdf/0001-E.pdf>. (accessed February 2010).

¹²⁵ New Brunswick Self-Sufficiency Task Force, *The Road to Self-Sufficiency: A Common Cause*, (n.p.: Self-Sufficiency Task Force, 2007) 16. Available through Government of New Brunswick, The Self-Sufficiency Task Force Web site under "Reports" <http://www.gnb.ca/2026/Promo/PDF/FinalReport-e.pdf>. (accessed February 2010).

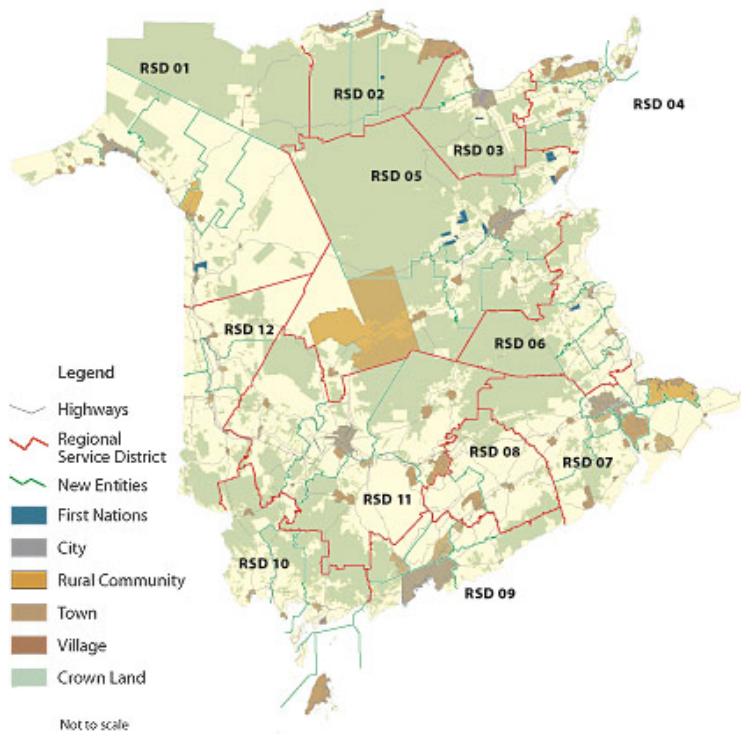
government in New Brunswick (the Finn Commission). The Finn Commission was mandated to provide an in-depth review of the current local governance system in New Brunswick and make recommendations for its improvement.¹²⁶

In its 2008 report entitled *Building Stronger Local Government and Regions*, the Finn Commission concluded that

...the present local government structure is neither self-sufficient nor sustainable... has too many government entities for the populations they serve and deprives many New Brunswickers of effective participation in the affairs of their communities. This multiplicity promotes duplication, fragmentation, and inefficiency of services while creating issues of responsibility, accountability and viability at the local level.¹²⁷

In response to this finding, it was recommended that current municipal boundaries be extended to embrace a larger tax base, and that 12 regional multi-service districts (RSDs) be established to

provide specific services that would eliminate duplication and alleviate municipalities from unnecessary obligations.¹²⁸ Every municipality would belong to one of the 12 RSDs and would receive services from an RSD.



Powers: The Finn Commission recommended that RSDs be responsible for 5 “supra-municipal services”: economic development, land planning, solid waste management, policing, and the provision of emergency services. All municipalities would receive these services from their respective RSD. In addition to these main functions, the Finn Commission recommended that RSDs serve as regional service facilitators by allowing municipalities the option of adding and expanding the number and type of services they receive from their RSD.¹²⁹

Source: Building Stronger Local Governments and Regions: An Action Plan for the Future of Local Governance in New Brunswick

To connect local economic development and land-use planning

¹²⁶ The Finn Commission, 5, 7.

¹²⁷ The Finn Commission, 75, 76.

¹²⁸ The Finn Commission, 79, 99.

¹²⁹ The Finn Commission, 104.

to the newly established regional entity the Commission recommended that every municipality establish a planning advisory committee (PAC). The exact connection between a PAC and an RSD was not defined, but it was the Commission's opinion that a PAC would be necessary to ensure that local development issues and knowledge are effectively addressed at the regional level. This local knowledge could then be incorporated into an RSD's regional economic development plan.

The Commission recommended that every RSD develop a "Regional Strategic Plan" (RSP) within its first three to five years to provide a regional planning guideline. The RSP would hold to provincial planning standards and take into account regional matters of provincial interest.¹³⁰ The RSP would "promote settlement that is socially responsible, economically sustainable and environmentally healthy and that makes more efficient use of land, public facilities and other resources."¹³¹ A RSP would give long range planning direction to RSDs and to the plans of participating municipalities. If an RSD failed to establish a Regional Strategic Plan in the three to five year period, the Commission recommended that a decision regarding the content of an RSP be made by a third party. This would assist in avoiding the inefficiencies brought about from possible conflicts.¹³²

With regards to economic development, the Finn Commission did not elaborate on how regional service districts would manage this service. The Commission did note, however, that it "doesn't make much sense" for land use planning and economic development to be conducted by two separate agencies.¹³³ As a result, economic development initiatives would be closely related to regional strategic plans.

It was the opinion of the Commission that economic development would be improved simply by the RSD board providing a forum where municipal representatives could discuss common interests and concerns. With a cross-municipal structure in place, important economic development issues regarding infrastructure and service delivery would be more efficiently addressed.

For waste management, the Commission recommended that RSDs be responsible for the collection, recycling and disposal of all regional solid waste. Contracts for waste management would be established with a third party that would have to meet all RSD-established regional requirements and standards.¹³⁴

It was the position of the Commission that RSDs regionalize emergency services because current emergency standards and regulations are too complex and sophisticated to be handled by most municipalities. Emergency programs are "more prescriptive than previously, and include executive governance, senior management accountability, performance management and continual improvement."¹³⁵ As well, major disasters make no distinction between intangible administrative boundaries, and require an integrated, not a fragmented, response. RSD-led emergency services

¹³⁰ The Finn Commission, 104-105.

¹³¹ The Finn Commission, 104, 105.

¹³² The Finn Commission, 105.

¹³³ The Finn Commission, 109.

¹³⁴ The Finn Commission, 106.

¹³⁵ The Finn Commission, 108.

The Functions of Regional Service Districts in the Finn Commission Model

Specific Powers:

Administration: Regional Service Districts would have administrative responsibility for its 5 core supra-municipal services. RSDs would have a head office and would be composed of councillors appointed by the participating municipalities.

Management of Development: Regional Service Districts would be directly responsible for land-use planning, economic development, waste management, policing, emergency services.

Regional Planning Development: Each RSD would create a Regional Strategic Plan (RSP), which promote settlement that is socially responsible, economically sustainable, and environmentally healthy while making efficient use of facilities and other resources. The RSP would give long range planning direction to RSDs and participating municipalities.

Taxation Ability: RSDs would have no taxation authority. Instead, a strict payment system would be established to ensure payment from municipalities to their respective RSD.

Common Services Provided to Municipalities and the Entire Region by the Regional Council

A RSD would be able to provide any municipal service with the consent of their participating municipalities.

An RSD would provide 5 services to all municipalities:

Economic Development	Emergency Service
Land-use Planning	Waste Management
Policing	

would “provide the necessary leadership, coordination, expertise and capacity to develop viable, accountable and sustainable emergency programs.”¹³⁶

For a regional government to be of better use to municipalities, the Commission argued that it must be flexible to account for specific municipal needs. Therefore, the Commission proposed the creation of a *Local Government Organization Act*, to provide a legal framework for service relations between municipalities and their RSD. In addition to requiring an RSD deliver the five “supra-municipal services,” the Act would provide the legal means for any “combination of municipalities [to] join together to provide a service through the RSD structure.”¹³⁷ RSDs would oversee the provision of these broader services and would allow municipalities to cooperatively participate or

¹³⁶ The Finn Commission, 108.

¹³⁷ The Finn Commission, 103.

opt out of arrangements if terms or changes were no longer agreed upon.¹³⁸ To the Commission, flexibility was considered to be an essential component to for a successful regional government.

With prescribed powers and responsibilities, the Finn Commission Model definitely meets the service characteristic of a regional government. The Commission's proposed RSDs are regional facilitators and exist for the advantage of their municipal members; the model encourages further regional collaboration.

Revenue: RSDs would not be permitted to tax residents of a municipality and would instead primarily generate revenue from member municipalities. Though the Commission expected the provincial government to provide start-up expenditures, further provincial contributions would be limited to special regional initiatives. Therefore, RSD revenue to provide its 5 core services would be collected from municipalities in the form of cost-sharing fees. To determine cost-sharing arrangements and a payment mechanism, member municipalities would enter into negotiations to decide the amount each council would pay. Cost proportions would be based on a municipality's ability to raise funds and its population's use of the regional services. To avoid lengthy negotiations, the Commission suggested that a generic cost-sharing mechanism be established in order to guarantee initial funding and a more permanent arrangement be created in the future.¹³⁹

To minimize inter-municipal disputes regarding the cost of services, the Finn Commission recommended the establishment of clear standards for service delivery and the creation of a dispute resolution mechanism. Under the Finn Commission model, should municipalities fail to negotiate a cost-share agreement within a set timeframe, a pre-established cost-sharing formula would be employed in order to both eliminate the inefficiencies of delayed service delivery and minimize municipal conflict. To further limit inter-municipal disputes, the Finn Commission recommended that each RSD include a municipal affairs commission to arbitrate disputes between municipalities. The municipal affairs commission would be required to confirm municipal boundaries, arbitrate service-sharing agreements, and solve general municipal disputes.¹⁴⁰ Thus, the Finn Commission model provided a well-considered approach to dispute resolution – a necessary component of any regional governmental body.

For municipalities that request that an RSD deliver an extra service, cost share arrangement negotiations would be conducted only by those municipalities receiving the service from the RSD. Such arrangements would not increase the fees of other municipalities.

As it could not directly tax residents of municipalities, the Finn Commission model is not self-reliant. The Commission seemed acutely aware of this fact, and did propose the creation of a cost-share regime that would assure prompt payment from debtor municipalities to the regional authority. As the Finn Commission model is strictly theoretical, it is impossible to judge the effectiveness of this regime.

Representation: RSD boards would be composed of 6 to 12 representatives known as directors, all of whom must be elected municipal officials. Each municipality would appoint its mayor and at least one councillor to the RSD board, with mayors sitting for terms of four-years and councillors sitting

¹³⁸ The Finn Commission, 103.

¹³⁹ The Finn Commission, 142.

¹⁴⁰ The Finn Commission, 170.

for terms of two. Chairpersons would be annually elected from among the directors and serve a 1-year renewable term. A vice-chair would also be elected from the directors for a 2-year renewable term. Given that all directors would be elected councillors, the Finn Commission ensures that the RSD would maintain a strong level of accountability to the electorate.¹⁴¹ RSD accountability is important to the Finn Commission because municipalities need to “feel that they have a degree of control over the shared services.”¹⁴² By having only elected municipal officials on RSD Boards, the regional structure would possess a definite level of legitimacy.

Each RSD would have a chief administrative officer (CAO) as part of its support staff. The CAO would implement the board’s policies and decisions and handle all operations.¹⁴³ Standing committees would be established for each regional service. These committees would work on behalf of the RSD to monitor and administer the delivery of specific services. Committee chairs and vice-chairs would be elected from an RSD board for a 2-year renewable term.

The RSD voting system proposed by the Finn Commission is complex. The Commission thought that RSDs required a weighted voting system because a one-seat one-vote system would not reflect the fact “that regional districts are groupings of municipalities of varying size.”¹⁴⁴ Therefore, not all directors would have an equal number of votes. Nor would all directors have an equal right to vote on every issue as only the representatives of municipalities with specific RSD-led service-sharing agreements would have the right to vote on decisions about such agreements.¹⁴⁵

Evaluation: The Finn Commission proposed a robust and viable regional government system. The model is based on the accurate presumption that certain services must be delivered regionally by a single organization. In this manner, the Finn Commission distinguishes between efficient and inefficient regionalization. To Finn, spreading regional services out amongst numerous distinct regional entities was counterproductive and created distinctions between services that did not exist. Proper regionalization, according to the Finn Commission, required an integrated approach to service delivery.

The Finn Commission model also borrowed from the B.C. and Quebec model by requiring that regional government be flexible. The Finn Commission wanted RSDs to be regional facilitators that existed for the advantage of members by encouraging regional collaboration. But the Commission was cognizant of the difficulties inherent in forging cross-municipal partnerships and understood that a robust dispute resolution mechanism was necessary to ensure that the process of governing does not stop when a dispute arises.

The most significant concern with the Finn Commission model is its inability to independently raise revenue from individuals within a municipality. The Commission recognized this deficiency and instead proposed a system to ensure regular payments from municipalities to the regional entity. As was mentioned in other parts of this study, it is difficult to see how such a system could work in

¹⁴¹ The Finn Commission, 100, 103.

¹⁴² The Finn Commission, 103.

¹⁴³ The Finn Commission, 101.

¹⁴⁴ The Finn Commission, 100.

¹⁴⁵ The Finn Commission, 103, 104.

Newfoundland and Labrador given the problems of tax collection faced by many of the province's municipalities.

The Finn Commission model has not yet been implemented in New Brunswick. This is not a reflection on the quality of the model, rather it reflects the difficult and time consuming process of municipal reform. The Finn Commission model is a contemporary plan for regional government. It should not be ignored as Newfoundland and Labrador engages in its own debate on regional government.

G. The American Model - Councils of Government

In the United States, direct local government structures are either counties, cities, or towns and townships.¹⁴⁶ Though many levels of local government exist, the United States also has an extensive system of regional governments that are considered standard throughout all states. These are known as Councils of Government (COGs) or Regional Councils, which encompass 35,000 of 39,000 local, general purpose municipal governments in the U.S. Unlike the models previously discussed in this study, COGs were the result of federal government efforts to promote regionalism. Most COGs came into existence in the late sixties and seventies, as a result of a promise of federal funding to support continuous regional planning efforts.¹⁴⁷ To solidify the funding arrangements, COGs were legislatively backed by such acts as the 1968 *Intergovernmental Cooperation Act*. Title III of that Act explains the purpose of COGs as being to:

- i. Encourage intergovernmental cooperation in the conduct of specialized or technical services and provisions of facilities essential to the administration of State or local governmental activities.
- ii. Enable state and local governments to avoid unnecessary duplication of special service functions.
- iii. Authorize Federal agencies which do not have such authority to provide reimbursable specialized and technical services to State and local governments.¹⁴⁸

Following the passage of this Act, COGs became the preferred approach to meet federal planning requirements "brought on by an increased awareness of the need for coordinated planning and

¹⁴⁶ John Kincaid, "Overview of Local Governments," in *Forms of Local Government: A Handbook on City, County and Regional Options*, ed. Roger L. Kemp (Jefferson, N.C.: McFarland, 1999), 5.

¹⁴⁷ Urrlan Wannop, *The Regional Imperative: Regional Planning and Governance in Britain, Europe, and the United States*, (London: Jessica Kingsley Publishers, 1995), 283. (Hereinafter "***The Regional Imperative***").

¹⁴⁸ Government of the United States of America, *Circular No. A-97*, August 29, 1969. Available through the White House, Office of Management and Budget Web site http://www.whitehouse.gov/omb/circulars_a097 (accessed March 2010).

programs.”¹⁴⁹ By the early 1980s, most COGs were official public agencies established under State law.

Powers: COGs can be created by state legislation or through the initiative of local communities. They have no federally mandated service requirements, which some predicted would be the system’s downfall. As one scholar of local government noted, they are:

The weakest kind of alliance conceivable, one which has no sanctional authority with regard to its members, one from which a participant may withdraw without citing cause. It is not a body politic or corporate, nor could it be any reasonable definition of the terms to be called a government.¹⁵⁰

Despite these concerns, COGs persevered and found a role in providing technical skills to small, poorly staffed local governments. This assistance provided these communities with the ability to pursue regional planning, which granted them greater leverage with the State to access federal funding for economic and rural development, housing, recreation, fire protection, and water quality.¹⁵¹

COGs currently operate whatever services local and state authorities sanction for them.¹⁵² Common services provided by COGs include comprehensive planning, transportation planning, economic development, services for the elderly, and clearinghouse functions.¹⁵³ But COGs are not confined to providing only these services. For example, the Capitol Region Council of Governments in Connecticut mediates conflicts among member municipalities and between municipal members and other parties. The Connecticut COG also serves as an organizational framework to ensure effective communication and coordination among different governmental bodies.¹⁵⁴ In Illinois, a set of nine COGs exist in the Chicago area to facilitate intergovernmental cooperation for system-wide problems, such as transportation, infrastructure and solid waste management, while also focusing on specific membership services and legislative lobbying.¹⁵⁵

¹⁴⁹ City-Region Studies Centre, *Regional Governance Models: An Exploration of Structures and Critical Practices* (Report prepared by the City-Region Studies Centre, Faculty of Extension, University of Alberta, October 26, 2007), 45. Available through City-Region Studies Centre under “Research” and “Publications and Presentations” http://www.municipalaffairs.gov.ab.ca/documents/Regional_Governance_Models_An_exploration_of_structures.pdf (accessed March 2010). (Hereinafter “**Regional Governance Models**”).

¹⁵⁰ Wannop, *The Regional Imperative*, 283.

¹⁵¹ Wannop, *The Regional Imperative*, 286.

¹⁵² City-Region Studies Centre, *Regional Governance Models*, 45-46.

¹⁵³ National Association of Regional Councils, “What is a Regional Council?” (2006). Available through National Association of Regional Councils Web site under “Regional Councils/MPOs” <http://narc.org/regional-councils-mpos/what-is-a-regional-council.html> (accessed September 23, 2009).

¹⁵⁴ Capitol Region Council of Governments, “Rules of Procedure & By-Laws,” 11, 12. Available through Capitol Region Council of Governments Web site under “Policy Board,” http://www.crcog.org/publications/CRCOG_OverviewDocs/orientation/Rules_Procedure_ByLaws.pdf. (accessed March 2010).

¹⁵⁵ Bonnie Lindstrom, “Regional Cooperation and Sustainable Growth: Nine Council of Government in Northeastern Illinois,” *Journal of Urban Affairs*, 20:3 (1998), 328. [Hereinafter “**Regional Cooperation**”].

As well as having no federally mandated services to provide, COGs have no specific federal responsibilities. The Capitol Region COG in Connecticut, for example, serves as a regional review and clearinghouse for Federal and State funded projects, zoning referrals and subdivision plans. It also assures fair loan distribution of State and Federal transfers among local government by establishing funding priorities for projects and assisting in the allocation of funds.¹⁵⁶ These responsibilities suggest that COGs have a degree of oversight with regard to municipal projects, but this authority is not mandated and it appears that State and Federal officials could bypass a COG.

COGs often adopt the additional responsibility of being a Metropolitan Planning Organization (MPO). In the United States all metropolitan areas with a population of more than 50,000 need an MPO. MPOs direct federal transportation funds and serve as a fair and impartial organization for effective regional decision-making. MPOs also have a planning function that includes the establishment of transportation and long-term economic plans. An MPO, much like a COG, is not involved in the implementation of plans, and instead adopts a coordination role.¹⁵⁷ In Connecticut, the Capitol Region COG serves as the MPO for the Hartford area.

Given the above listed functions, COGs do possess the service characteristic needed for a regional government. Some COG-provided services are those, like oversight capabilities, that cannot be provided at the local level. Given the significant differences that exist among COGs, it is difficult to assess whether they effectively or efficiently deliver services.

Revenue: To raise revenues, COGs rely on membership fees, State and Federal grants, and funding from private institutions.¹⁵⁸ However, contributions from private enterprises do not make COGs a public/private partnership because private citizens cannot sit on a COG's regional council. Nonetheless, private funding does give the private sector influence on the COG and private citizens can sit on COG committees. COGs are definitely not self-reliant and depend on continued outside contributions to function.

Representation: Given the lack of federal control and oversight for COGs, the membership of and rules for the composition of COG councils varies from State to State. In Connecticut, the State legislated control of COGs, and the State requires a municipal council to adopt certain legislative conditions before becoming a member of a COG. Every municipality within a region can become a member of a COG and, so long as it meets the legislative requirements and pays the membership fee, is entitled to a seat on the COG's regional council. In the Capitol Region COG, each member is entitled to only one vote regardless of the population size of that member municipality, and matters can be passed by a simple majority. COGs are simple institutions, which may be indicative of the minimal prescribed authority they possess. The COG model is also accountable as it is entirely composed of elected officials. This model does not affect local identity.

Evaluation: The value of COGs in the American political system is certainly relevant for Newfoundland and Labrador. The Councils can speak on issues of regional development in a way

¹⁵⁶ Capitol Region Council of Governments, "Rules of Procedure & By-Laws," 3.

¹⁵⁷ City-Region Studies Centre, *Regional Governance Models*, 46.

¹⁵⁸ City-Region Studies Centre, *Regional Governance Models*, 51.

not available to other units of government. COGs are owned by their members, and can provide representative stewardship for regions.¹⁵⁹

Nonetheless, the COG system would be a difficult fit for Newfoundland and Labrador. In many ways, a COG resembles an amalgamation of a joint council and a REDB, as it serves more as a policy forum and a place to exchange ideas. The oversight capabilities of the Capitol Region COG with regard to ensuring the equal distribution of State and Federal funding may not be appropriate, or necessary, in this province. Much of the specialized funding our municipalities receive are for particular projects, and any regional council created in Newfoundland and Labrador should pursue funding based purely on need, and not on ensuring that everyone gets their piece of the pie.

COGs, however, do provide a valuable structure to facilitate service-sharing arrangements among member municipalities. Service sharing arrangements are very legalistic in the United States, and COGs provide legal assistance through sample contracts and consultations. This is a good service, and sharing arrangements in this province could benefit from a more formal approach that addresses issues such as dispute resolution, and expanding, renewing, and ending services.

¹⁵⁹ Lindstrom, "Regional Cooperation," 340.

Moving Forward

It is important that a practical path be established so that the debate and discussion on regional government can be sustained. As was stated earlier we are proposing significant reform to the municipal system, which will take much time and effort. Regional government will not be created next month or even next year, but momentum must be maintained. This will require an ongoing commitment by both MNL and municipalities.

There are four primary projects that need to be completed to advance the debate on regional government:

1. **MNL Presentations and Consultations with municipalities:** We need to come to our members and present the arguments, facts, and ideas of this study. We need to answer our members' questions and listen to their concerns. Most importantly, we need our members to imagine regional government in your community - how it could work, not work, and what aspects of the different models are most attractive. We think that once it is imagined and conceptualized, our members will find regional government more empowering and less intimidating and intrusive.
2. **Municipal Stress Tests and Municipal Benchmarks:** This is perhaps the most difficult task that has to be completed in the months and years ahead. As was explained in Volume 2, municipal stress tests will involve a more in-depth assessment of the status and function of municipalities and the establishment of municipal benchmarks. We expect that standards and a new assessment of municipalities will highlight the need for a regional government system. It is essential that municipalities take the lead in creating and implementing municipal benchmarks. This will show that municipalities are responsible and organized enough to police themselves. The provincial government will eventually have a role in this process, but it should be secondary to the leadership displayed by municipalities. To further the goal of creating municipal benchmarks, a task force on municipal benchmarks should be created as soon as possible. This task force should be composed of municipal leaders, administrators, engineers who work in the municipal sector, academics, and members of MNL and PMA. This task force will provide the organizational structure needed to begin the municipal benchmarking process.
3. **A Reassessment of Municipal Taxation:** Not much has been mentioned in this study regarding changing the revenue raising capacity of municipalities. In order to establish a regional government with its own capacity to raise revenue, it may be necessary to change how municipalities generate revenue. Whether this is done through a municipal income tax, or by allowing municipalities to invest in and own local energy generating sources, a new fiscal framework needs to be analyzed and established if a regional government system is going to work.
4. **Formalizing a New Relationship between Municipal and Provincial Governments:** It is time that municipalities evolve beyond being simply creatures of legislation; rather, municipalities must become protected by legislation. Municipalities need to be endowed with certain rights and responsibilities, and above all they need to be respected as the level of government that is closest to the people. This requires more than mere government assurances, it requires a new law. Municipalities will be able to act with much more certainty if afforded these appropriate protections.

MNL, however, does need some specific support from our members. We need you to open your council chambers to us and allow us to come and present our findings. We need our members to remain open-minded and to read carefully what we've written. We need our members to recognize the risk we are taking by releasing this study, and understand that this risk is taken out of a genuine concern for the long term sustainability of municipal government in Newfoundland and Labrador.

What we hope to build is a movement for regional government; a movement that is not built on confronting the province but on convincing municipalities of the benefits of regional government, not just the need. The province will act if the movement can build sufficient force. We cannot afford to create a dialogue that is hampered with pessimism about political will and lack of resources. That provides no answers to the problems. There needs to be a focus on solutions and building a consensus. Out of this consensus will be born a new political will.

Our expectation is that the province will have an open mind to what we are proposing. We appreciate that MNL is requesting a shift in how municipalities are treated and managed by the provincial government. This, too, will take time. We do need political will from provincial politicians to allow the regional government process to develop, regardless of whether the process is unpopular in a few municipalities and with the residents of local service districts. MNL does not need explicit provincial support, but neither does it need the province to be a hindrance.

Regional government would be more expensive than the current system. The extra cost is inevitable given that a regional government would be providing services that are currently outside of the capacity of most municipalities. We make no presumptions as to how this extra cost is to be raised, and we feel that the cost of regional government should form part of the debate that we hope this study spurs. What needs to be stressed, however, is that there should be no assumption that local government should be the most inexpensive level of government. This opinion not only undermines the capacity of municipalities to provide important and essential services, it also cheapens the importance of local government. Rest assured, however, that we have no desire to promote a form of regional government that will become a money pit out of which municipalities would receive few tangible benefits.

Although establishing a system of regional government would be a significant change, it does not have to be a change that is completely divorced from the strengths and characteristics of our current municipal system. Regional government needs to be interpreted as the protector and promoter of municipal autonomy and sustainability. In considering this purpose, it is important to reflect upon the effects of maintaining the status quo. It is evident that municipal government currently suffers from "benign neglect:" they manage on their own and survive or dissolve over time.¹⁶⁰ This approach is based on the hypotheses that:

... change will most easily occur when municipalities come to their own realization that change is necessary. Dissolution and/or consolidation may be a last resort but it does provide a way out for a municipality that doesn't have the resources to exist on its own.¹⁶¹

¹⁶⁰ Peter Diamant, *The Structure of Local Government and the Small Municipality* (Rural Development Institute, Brandon University, 1994), 33.

¹⁶¹ Diamant, *The Structure of Local Government*, 33-34.

Fortunately, the process of benign neglect is reversible. Municipalities do not have to operate on their own. They have close to three hundred partners with which to consult and forge a better path to the future.

With the launch of these three papers, MNL is beginning a process, the end result of which is unknown. Nonetheless, what municipal politicians, the provincial government, and policy makers must keep in mind is that regional government has to be done right the first time - if it is done wrong, it will be put off for another generation. As a result, regional government must be pursued and established with the utmost care.

We want to close with three questions for our members:

1. Do you think the current municipal system needs to change?
2. Do you think the sustainability of your municipality is better supported and promoted through greater collaboration with other municipalities?
3. Are you willing to participate in a substantive discussion on the form, merits, benefits, and obstacles of regional government in Newfoundland and Labrador?

If you answer yes to these three questions, please pass a resolution of council reflecting this acknowledgement. Please then forward a copy of this resolution to MNL. Consider it the first step in the development of the regional government movement.

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