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Report and
Third Reading of Bills

Hon. G. Abbott: I call committee stage on Bill 23, the Public Health Act.

Committee of the Whole House

PUBLIC HEALTH ACT

The House in Committee of the Whole (Section B) on Bill 23; S. Hammell in the chair.

The committee met at 3:43 p.m.

On section 1.

A. Dix: I just want to start by thanking the minister, the deputy minister and Dr. Kendall and the team for providing us with a briefing on the bill last week, which I think will greatly shorten the debate and was also very helpful. I thank the minister and his staff for that.

On section 1, I think the minister would agree that one of the innovative parts of the bill is the definition here provided to "health impediment" which I think will assist us. Maybe the minister can speak to the purpose of it, because it seems to me that that will provide us with an ability to get at some public issues that are not, shall we say, emergencies but some of the issues such as the trans fat issue, which is one of the broader public initiatives that will come out of this bill.

Perhaps the minister could speak to that definition — why it's in the bill and what the government seeks to accomplish by it.

Hon. G. Abbott: I thank the member for his question.

Joining me again is my deputy Gord Macatee, and behind me are Dr. Brian Emerson and Dr. Perry Kendall. Dr. Kendall is the chief provincial health officer for the province of British Columbia.

[\[1545\]](#)

In terms of the member's question, I think he summarized it correctly that a health impediment is something that might produce long-term cumulative effects in relation to public health, may cause chronic disease or disability, interferes with the prevention of injury or illness or is something associated with poor population health.

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Though trans fats would be a very good example of a health impediment, the impacts of trans fats are not immediate. They are cumulative and long term, but there's not an immediate risk to health. It is a longer-term process whereby it has that deleterious effect.

Sections 1 and 2 approved.

On section 3.

A. Dix: Perhaps the minister could introduce this section by giving some indication of the purpose for which he would plan to use it. It says, of course, that the minister may require public health plans. Just to introduce this sort of health planning part of the debate, perhaps the minister can talk about how and when he would intend to use this — to assist us as we go through these sections.

Hon. G. Abbott: This provision around public health planning would structure more formally what has already been undertaken in the province, which is the production of public health reports in particular areas. For example, a health authority or a regional hospital district might be obliged to produce a public health plan in respect of the management of HIV issues within its bounds or mental health issues within its bounds, and so on. Those are the kinds of things that would be done under this provision.

Sections 3 and 4 approved.

On section 5.

A. Dix: Just on section 5, this section essentially talks about the impact of public health plans on statutory decisions. It gives the minister's plans a certain override, both section 5 and I think section 6, over other plans already made by the provincial government.

Can the minister just talk a little bit about that relationship, particularly its relationship between public health plans and other plans put forward, say, by local government but also other agencies of the provincial government?

[\[1550\]](#)

Hon. G. Abbott: This provision will take us into an area which is by its nature apt to be controversial in some instances. As members on all sides of the House know, there are occasions when the need for a mental health or addictions facility is confounded by public opposition and the reluctance of a local government to plan for facilities of that character notwithstanding the public concerns that they may feel.

This would oblige local governments to plan for those kinds of facilities to make sure that within their zoning bylaws and their official community plans, there are areas where those kinds of facilities — mental health, addictions and other facilities — can be found within that community.

It is occasionally believed that there are some communities where there are no mental health or addictions issues. That is not true; every community has them. I guess the core of the proposition here is that every community should plan for them.

B. Ralston: Then dealing with section 5 — there are also questions that arise out of the more specific legislation in section 6 — the minister, I think, has referred to some of the problems that do arise in individual communities. Does this then give the provincial cabinet — under the auspices of this act and the powers that it grants itself here in section 5, assuming this section passes — the power to override a specific municipal zoning decision not to locate a facility in, say, a certain part of a city or municipality?

[\[1555\]](#)

Hon. G. Abbott: In this section there's is a more generalized requirement for municipalities or local governments to plan for mental health facilities, addictions facilities and so on. There is not in this section the notion that we decide that a facility should be in this part of town or that part of town. The obligation is that local governments recognize that these kinds of facilities are necessary within their bounds.

The only way that we would override in this section.... I think there is a more specific override section later in the bill. But in this section, if an override were to be used, it would be in the generalized sense that we encountered a local government that said: "We don't need to have any mental health or addictions facilities here. That's not necessary. We don't believe there is any need for them." In that case, this section would provide us with the authority to say: "No, we believe that you do need to plan for those things."

B. Ralston: In section 5(2)(a), (b) and (c) there's a phrase, "specified enactment," that's not set out in the definitions section. By "specified enactment," is that what is being referred to — a municipal bylaw, an official community plan or some other act of municipal jurisdiction — or, I suppose one could also argue, of a regional district or a regional government?

Hon. G. Abbott: Yes.

Section 5 approved.

On section 6.

B. Ralston: I believe this is the section that the minister was referring to just moments ago when discussing section 5. I'm looking specifically at 6(1)(c), which reads: "...despite any other enactment, provide that specified government or local government strategic or operational plans, bylaws or other planning documents, or classes of these, do not have legal effect to the extent of any inconsistency with the public health plan."

That would seem to be relatively clear language that would give these plans priority over municipal bylaws or those of a regional district or a regional

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government. I just wanted to confirm that. I understand the policy reasons.

Certainly the area I represent sometimes views itself as the choice for locating these kinds of facilities as opposed to other parts of the city. I know that it's sometimes a widespread sentiment whenever these kinds of facilities are discussed. In the area that I represent, it's a view that's quite common.

I just wanted to be clear that notwithstanding the view of the city government or any efforts to locate those elsewhere, if the public health authorities thought that the best location was, say, in Surrey-Whalley, this would give them the legislative authority to place that facility there.

[\[1600\]](#)

Hon. G. Abbott: I think the member is pretty much correct in his analysis of this. So (c) goes to where the enactment of a local government is inconsistent with the public health plan for that area. Where it is inconsistent, where we identify that there is an issue, there is an obligation on the part of the minister to consult with the affected local government. Any override of the local government enactment would have to be done by order-in-council as opposed to a ministerial order. Those are the safeguards in respect of that.

To the member's point about Whalley in particular and the number of such facilities there, the aim here by government is that every municipality recognize that it has an obligation to its own citizens who have mental health and addictions issues and that we shouldn't expect only some communities in British Columbia to take account of those. Certainly, Whalley would be the last place we would suggest that hasn't done their share.

B. Ralston: Just a more general question before moving on, maybe a two-part question. I take it that section 120 is the section that empowers the Lieutenant-Governor-in-Council, the cabinet, to make these kinds of orders. It appears to be related to section 6.

Secondly, can the minister advise what the views of the Union of B.C. Municipalities was when it was consulted about this obvious potential conflict with municipal jurisdiction?

Hon. G. Abbott: The member is correct in respect of section 120 and its application.

In terms of the Union of B.C. Municipalities, we did have a number of discussions with UBCM. Some of the changes that we made over time reflected the concerns of UBCM. I think it

would be fair to say that UBCM still has some residual concerns about that. I suspect their preference would be that the province not have an override, although depending on which members of local government one talks to, some of them would actually welcome this, and others would not. I guess that's to be expected.

Sections 6 to 15 inclusive approved.

On section 16.

A. Dix: Section 16 is related to preventative measures. I wanted to just draw the minister's attention to section 16(4). I think it's useful to understand what happens here, what the process is if someone has a form of conscientious objection to treatment and what the process is, for example, with respect to objecting and then potentially to being quarantined.

[\[1605\]](#)

The individual might make this objection, this sort of conscientious objection to certain forms of treatment, say, during a SARS epidemic or something. The processes of appeal to both the chief medical officer of health and, well, not potentially to the minister.... I think that in this case it's what the process would be for them to raise this issue of conscience. What would happen when that takes place?

Hon. G. Abbott: There are only a very few instances where this provision of this bill would apply. I'm advised that when babies are born, there's a requirement to have their eyes treated with ointment at birth. In that instance, if the parents — and presumably they would be aware of the procedure because of previous consultation with the obstetrician about it — had an objection to the treatment by ointment, then it wouldn't be required. It's kind of as simple as that, I guess.

Sections 16 to 21 inclusive approved.

On section 22.

A. Dix: This is the section related to health impediments. Maybe the minister can just give us an update in terms of his consultation process on — I believe I've got this right; I may be wrong — the trans fat issue and where the consultations are at right now. This might be the appropriate time to ask that question; there may be other times.

Maybe the minister could just comment on that and also comment on what other potential issues he sees in the future as possibly being addressed by that, if I may ask him to speculate. What other kinds of things might the government be considering having a look at here?

[\[1610\]](#)

Hon. G. Abbott: This section is an enabling provision. It doesn't mean that we're necessarily going to be covering off trans fats, but trans fats are the one example of a health impediment that is likely to be utilizing this section.

It can only be done by regulation. That regulation has not been drafted yet. There have been some early initial consultations, and the consultation process is in fact being designed currently. There will be much more consultation around the potential application of this provision to trans fats before a cabinet decision would be made to add it by regulation.

We've briefly canvassed what some other examples are. We can't think of any other examples at this point that would have the same sort of health impediment profile as trans fats do in our society. We're pretty

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pleased that there already seems to be quite a bit of movement in the industry to find alternatives to trans fats. So that's a good thing too. Perhaps by the time this actually does become a regulation, hopefully most of the industry will be moved from utilization of trans fats.

A. Dix: But it would be the intention of the government, consistent with the throne speech, to actually act — not to go for voluntary compliance, although one would hope that as the minister says, some form of voluntary compliance would come through. Then the effect of the regulation would just be to essentially regulate the status quo. It isn't the intent of the government to seek some sort of voluntary compliance and not bring in a regulation.

Hon. G. Abbott: Yes, it is the intention of government to proceed with the regulation of trans fats as per our promise in the throne speech.

Sections 22 to 25 inclusive approved.

On section 26.

A. Dix: Just on section 26. Presumably, the reason this is a ministerial responsibility — I'm going through my notes; I just wanted to check this — as opposed to, say, the chief medical officer of health would simply be because of the cost implications. Is that correct? I would assume that all of these provisions would be done on recommendation by the deputy minister or the chief medical officer of health.

[\[1615\]](#)

Hon. G. Abbott: I'm advised that the wording of this section reflects the seriousness of the step that is being undertaken. Essentially, it would involve the expropriation of a given facility for a period of time — for example, sequestering an entire hotel or something of that character. That is the reason for the elevated decision-making on this.

A. Dix: It's obviously pretty important, and the reason it would be.... In a general sense, you'd say that Dr. Kendall would have that power, and he probably does. The reason it's elevated to the level of the minister is that, for example, quarantining a hotel would be a multi-million-dollar cost. Would that be the reason why it would be the minister rather than, in that case, Dr. Kendall or the chief provincial officer of health? Is that fair to say?

Hon. G. Abbott: Yes.

Sections 26 to 35 inclusive approved.

On section 36.

A. Dix: Just on section 36. This section gives a health officer the responsibility to contact the land title office about public health hazards. I presume this would include things such as — I don't know — contaminated wells or other pollution on a property. I thought of a piece of property that I once dealt with when working for government, which had a number of problems. I think it was a B.C. Hydro property with problems relating back to B.C. Electric.

Presumably, what this does is allow anyone seeking to buy a property to have some assurance that if there's something that's reached the level of a public health hazard, they don't just have to depend on the absolute obligation of a seller to tell them that something's wrong. In addition, if something has reached that level, there's the additional assurance that the public health officer — if they know about it — will absolutely ensure that that matter is put to the land title office.

Am I understanding that correctly? I wouldn't think that would be a change, although it might be a change. Maybe the minister can just assure us that that has not in fact changed and that obligation already exists.

Hon. G. Abbott: The member's assessment of what this does is correct. It is new. There does not currently exist the statutory authority to do this, but this gives expression to what's been done informally, I think, in the past. It is new in that sense.

[\[1620\]](#)

Sections 36 to 49 inclusive approved.

On section 50.

A. Dix: It's one of those things which is clearly heartbreaking, but I gather what this section does is allow the government to remove someone living in squalor from their home under a number of conditions. I mean, one of the real frustrations, and we talked about this a little bit at second reading, is that many people....

The minister will know that when I talk to people about diabetes, I frequently talk to people who are living in very difficult conditions. Obviously, they would like to get out of those conditions and live better.

This isn't lifting people up. This section actually has to do with people who would require removal, if I understand correctly — that they're living in such terrible conditions and are refusing, in some cases, to move — to move them out. It doesn't, obviously, deal with people who probably should move and we'd want to move but aren't able to move because they don't have enough money to move. In this case, this deals with, say, an older person, if I understand, or a person who for whatever reason may not wish to move. This allows the medical health officer to apply and seek their removal under a series of conditions.

Am I correct about this? I know there have been a lot of changes with respect to adult guardianship in recent times. Is this a new section? What are the current arrangements? Are these arrangements frequently used? Am I correct to say that this kind of section would be used rather rarely? It wouldn't be used in a case where someone maybe should move, but this is to deal with really extreme circumstances.

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Hon. G. Abbott: The member's characterization is largely correct but not perhaps entirely. This is a provision, I am advised, that would not be used often. The medical health officer reckons that over four years, they might see it three times.

[\[1625\]](#)

It is squalor in combination with a serious and ongoing illness that is likely to be exacerbated by the conditions in which the individual is living. That may involve a proliferation of cats and rats and feces and other issues that would obviously be very consequential to the health of the individual.

This would only be used where all other avenues have been exhausted. It requires a Supreme Court order to use this section. It is a serious remedy; it is one that is rarely used. But it is one that needs to exist because these circumstances do occasionally occur.

A. Dix: In this case, unlike other cases, this remedy does already exist, I think. Does it? I guess that's the question I have. Does the remedy already exist, and this is just an updating of the existing legislation? The minister is indicating yes, so we'll let this go through.

Hon. G. Abbott: The member is correct.

Sections 50 to 53 inclusive approved.

On section 54.

A. Dix: Section 54 is the general emergency powers section. These kinds of powers, as I understand it — and I know this because Dr. Kendall told me this the other day — haven't ever been used. Maybe the minister can just let us know, because these are obviously important provisions, if they were to be used. This would give the minister and the health officer, I should say in this case, some more flexibility in the time of emergency powers.

Can the minister perhaps quickly explain what the purpose of this is and what additional powers this gives the health officer to deal with medical emergencies, were these powers to be invoked?

Hon. G. Abbott: The purpose of these general emergency powers is to allow the medical health officer or the provincial health officer to act quickly to deal with an extraordinary and dangerous situation.

The exemption would be to provide.... I'll quickly run through the list: be exempt from time limits; be exempt from providing required notice; present orally what otherwise would be done in writing; suspend or vary a licence or permit without allowance for dispute; specify a facility, place, person or procedure in an order that is not required under section 60; omit otherwise required things from orders; serve an order in any manner; not reconsider, review or reassess an order; exempt an examiner from providing an individual his or her examination results; conduct an inspection at any time without a warrant; and collect, use or disclose information as needed.

[\[1630\]](#)

Those are the things that would be exempted for these purposes. But it is important to note that the expectation is that all of those things would be remedied when the emergency had passed. It is not something that one would leave unresolved permanently, but I think, as all members of the House would appreciate, there will be times of extraordinary emergency where people need to move very quickly and do the things they need to do to contain an emergency. That's the reason for the section.

Sections 54 to 62 inclusive approved.

On section 63.

[K. Whittred in the chair.]

A. Dix: I believe, if memory serves, this is the section that deals with the standards for environmental health officers — that this is new. Can the minister say whether the regulations that are pursuant to these are ready or when they're expected to be ready? Just very briefly, if you could talk about these provisions. We've already done this in the previous part of the update to the statutes that has been done with regard to drinking water.

Can you talk just briefly about the standards for environmental health officers and when we can expect those standards to be put in place pursuant to this section?

Hon. G. Abbott: There is on the orders of the day an amendment to section 63 standing in my name. Perhaps I'll move that. I just wanted to inquire, Madam Chair, whether the member had a copy of the amendment.

A. Dix: Yes.

Hon. G. Abbott: Okay. So the member's question is informed by the amendment. I'll move the amendment and get the answer to the member's question then.

[SECTION 63, by deleting the text shown as struck out and adding the text shown as underlined:

Power to establish directives and standards

63 (1) The minister may by order establish

(a) directives respecting the exercise of powers and the performance of duties

(i) by health authorities under this enactment,

(ii) by local governments under a regulation made under section 120 ~~(1)~~(2) (a) or (b) [*regulations respecting local governments*], and

(iii) by a person under a regulation made under section 125 (4) [*other regulation-making powers*], and

(b) standards of practice for environmental health officers in relation to the exercise of their powers and the performance of their duties under this or any other enactment.

(2) Without limiting subsection (1), in respect of a provision of this Act or a regulation made under it that refers to a facility, place, person or procedure specified in an order, the minister may by order do the following:

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(a) require particular facilities, places, persons or procedures to be specified for the purposes of any section;

(b) set standards or qualifications that facilities, places, persons or procedures must meet before a health officer can specify the facility, place, person or procedure in an order;

(c) authorize health authorities to set standards respecting facilities, places, persons and procedures that can be specified by health officers in an order.

(3) The minister may make orders respecting the following:

(a) the timing and substance of performance reviews for medical health officers to be conducted by the provincial health officer;

(b) training and qualifications for environmental health officers, including requiring ongoing training.]

On the amendment.

A. Dix: Maybe the minister can just explain the amendment and then answer the question, and then we'll pass the amendment and the section together.

Hon. G. Abbott: There are two parts to the answer here. The amendment is quite straightforward. It just corrects a cross-reference in the bill.

In terms of the member's substantive question around the consultation on standards of practice for environmental health officers, those discussions are underway. We expect the first area that will be brought to a conclusion is around the minimum educational qualifications for the practice, and consultation on other issues will be continuing for some time.

Amendment approved.

Section 63 as amended approved.

[\[1635\]](#)

Sections 64 to 73 inclusive approved.

On section 74.

Hon. G. Abbott: I move the amendment to section 74 that stands in my name on the orders of the day.

[SECTION 74, *by deleting the text shown as struck out and adding the text shown as underlined:*

Delegation by medical health officers

74 (1) Subject to subsection (2), a medical health officer may in writing delegate to a person or class of persons any of the medical health officer's powers or duties under this or any other enactment, except the following:

(a) a power to further delegate the power or duty;

~~(b) a power or duty as provided in an enactment;~~

(b) a power or duty under another enactment, if the other enactment provides that the power or duty is not delegable;

(c) powers and duties under section 73 *[advising and reporting on local public health issues]*.

(2) A medical health officer must not delegate a power or duty to a health officer who has not been designated to act in the geographic area in which the delegated power or duty is to be exercised or performed.]

On the amendment.

A. Dix: I think it's a similar kind of amendment. Maybe the minister could just explain the purpose of the amendment.

Hon. G. Abbott: The purpose of the amendment to subsection 74(1)(b) is to clarify that if another amendment doesn't provide for delegation of a duty or power, then that delegation cannot be achieved through this act either.

Amendment approved.

Section 74 as amended approved.

Sections 75 to 82 inclusive approved.

On section 83.

A. Dix: The minister talked about the cooperation with local government before in the discussions with the UBCM. I think this is the section. The minister will know that in the Chapman Creek case, there was an effort to bring forward a case that complained about health hazards. I know there are a number of sections here that deal with that.

I wonder if the minister can speak to the old sections 57 and 58 of the Health Act and the reason why changes were made so that a similar locally generated concern about drinking water couldn't come forward in the same way in the future — maybe just as part of that, sort of an entry into that debate.

I know that, as the minister will know, this obviously doesn't mean that complaints can't be brought forward. I think I'm on the right section. I may be wrong on this. I was just doing my notes. Maybe the minister can speak to the Chapman Creek case — the changes the bill makes to that process and why that — I don't know if you'd call it a loophole; the government may call it a loophole — hole was closed.

[\[1640\]](#)

Hon. G. Abbott: We can get the debate underway at least with this. I'm sure this is an exciting part of the day for members, and that's good.

The Chapman Creek case — the member is right. That certainly is connected to what is being undertaken here. The Chapman Creek case involved a local government — I believe it's the Sunshine Coast regional district — re-forming itself as a local board of health. Local boards of health are something that I'm advised was created in the early 1900s, the early 20th century. They were created to deal with issues like typhoid and cholera and those kinds of issues.

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Prior to that case of the Sunshine Coast regional district re-forming itself as a local board of health and undertaking the work that they did, we believe that the local board of health provisions had been moribund for at least 25 years. That is, we had never seen an instance for at least 25 years of a local government taking what certainly appeared to be an antiquated provision and using it for a public policy purpose.

The big difference, of course, over 25 years at least, was that we have seen the development of a range of health authorities. Those health authorities have certainly changed over the 25 years, but today health authorities exist with expertise of environmental health officers and medical health officers, etc., to form conclusions about those things.

[\[1645\]](#)

The day of the local board of health, we believe, is long past. The case, I think, was in large measure prompted by the local government being dissatisfied with the decision of the medical health officer about whether the issues on and around Chapman Creek were valid. The medical health officer, in his detailed and informed consideration of that matter, did not believe that a health hazard existed.

I understand that the regional district government disagreed with that and that they took the action they did, but this will eliminate local boards of health from statutory life. As I say, they have been moribund for a very long time, and I think this step is appropriate.

I would also add that we have spent a very considerable amount of time with the Union of B.C. Municipalities on this particular issue. I don't know what the overall position of UBCM is after the discussion and the safeguards, and so on, that we have put into this in terms of the opportunity for appeals up the ladder, so to speak, from the opinion of the medical health officer.

The members opposite may have some recent correspondence from the Union of B.C. Municipalities on that. But I think that is the core reason why we were proceeding as we did — because this is a moribund, antiquated provision that is no longer necessary within the public policy framework of the province.

N. Simons: I wonder if the citizens of the Sunshine Coast would have considered that their only option to deal with what they perceived as a health hazard was moribund and antiquated. I do wonder if the minister can say whether there is any provision now for a citizen to actually trigger an investigation.

I would like to maybe ask first whether or not he believes that the medical health officer wasn't concerned when, in fact, there seems to be significant evidence that he was concerned as well.

Hon. G. Abbott: I would refer the member to section 83, which reads:

"(3) A local government may (a) request a medical health officer to issue an order, under this act, in respect of a health hazard, and (b) if the medical health officer refuses to issue the order or to issue the order as requested, request the provincial health officer to review the decision of the medical health officer.

"(4) Following a review of subsection (3), the provincial health officer may (a) refer the matter back to the medical health officer, with or without direction, or (b) make an order that, in the opinion of the provincial health officer, is appropriate in the circumstances.

So that is the process, and that is the safeguard. Again, knowing this member, I'm sure he would want to have due public process, and we believe the act achieves that.

N. Simons: I think what may be missing for some people is the fact that a person can't do it. An individual can't require or in any way have any strength or power to tell local government to engage in a further investigation. Really, right now we do have a situation where local government may request intervention, but an individual is unable to do that.

I guess one of the concerns is that some decisions.... I believe that the public should have an opportunity to play a role — not simply to eliminate that possibility entirely.

Did the minister just confirm that it is in fact no longer possible for a private citizen to trigger an investigation into a potential health hazard?

[\[1650\]](#)

Hon. G. Abbott: I'm going to be choosing my words advisedly because what I may say here is important to the interpretation of this. I'm advised that in respect of these provisions, any person at any time can go to a medical health officer and request an investigation of a matter. Similarly, if they are dissatisfied with that, they can take the issue on to the provincial health officer as an individual requesting those things.

Presumably, in advance of doing that, they might also have contacted their local government, expressing their concerns with respect to it. Presumably, if they were persuasive, the local government might take the issue to the medical health officer and, if dissatisfied, on to the

provincial health officer, but there is certainly provision for the individual to act here as well as the local government.

N. Simons: Did the minister say that the medical health officer didn't consider that there could in fact be a health hazard with the proposed logging that was about to occur in the Chapman Creek watershed?

Hon. G. Abbott: We are not, by the way this bill is structured, passing comment at all on the Chapman Creek issue.

What we're attempting to do is put in place, as an alternative to the now moribund local boards of health provisions, a process whereby if people are dissatisfied with the decision at one level, it can be effectively appealed to another level. So this in no way supports or disparages the decision-making processes around Chapman Creek. I think those decision-making processes, which existed under previous legislation, were adjudicated by the Supreme Court of British Columbia, and we wouldn't comment on that one way or another.

N. Simons: I can tell the citizens of the Sunshine Coast that the act was amended or has been changed

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due to their advocacy. However, I feel that many residents of the coast are going to be interpreting this as an erosion of their ability to have input into what goes on in their coast, especially when you're talking about a watershed that provides drinking water to 90 percent of the Sunshine Coast population.

I guess it does cause some consternation among residents when what appeared to be the only legislative tool to even get a review of a particular activity, in the only drinking watershed of the Sunshine Coast serving 90 percent of the population....

The only potential ability for a private citizen to intercede has been effectively removed, because we could see evidence that not everybody was in agreement. There was certainly an issue that needed to be resolved. Ultimately it was resolved. I have to point out that some of the proposed logging activity was seen as a potential health hazard, including logging on slopes of over 60 percent.

So in this particular case, we will require that the citizen is simply able to inform the local government or the medical health officer of a concern. They no longer have an actual say in the process that occurs from that point on.

Hon. G. Abbott: It's important that I advise the member that these changes were unrelated to the Chapman Creek court case. The draft provisions we are discussing here today were posted on the Net about three years ago for consultation purposes, and they were posted well before the Chapman Creek issue ever arose.

[\[1655\]](#)

It was interesting that what we thought three years ago, on the posting of the draft legislation.... We didn't anticipate that it would be controversial in any way, because no one had used local boards of health for over 25 years. Then in the interim, they were used.

This was not developed in response to the Chapman Creek issue. In fact, it long preceded it. But I still think the changes are appropriate, and the safeguards in place through the provisions of section 83 are appropriate as well.

N. Simons: Just one last question. In fact, the changes as proposed — they're not the Sunshine Coast ones. We have the pleasure of using the moribund act prior to its almost immediate disappearance.

When a report is made to a designated person.... Can the minister explain who a designated person is under the provisions of the new legislation? I believe that's going to be determined under regulations, but is it possible to get sort of a preview?

Hon. G. Abbott: The answer to the question is that it will probably vary a certain amount with circumstance — i.e., how large and structured the local government is. It may be, in most instances, a medical health officer, but in relation to drinking water, it could be a drinking water protection officer or an environmental protection officer.

Section 83 approved on division.

Sections 84 to 119 inclusive approved.

On section 120.

A. Dix: This is the section we were talking about briefly earlier. It addresses some of the issues we've sometimes seen in local government using local bylaws to make health delivery more difficult. One could conceivably see it, with respect to needle exchange, perhaps impact the rights of women to reproductive choice and others.

Can the minister just take us through what a dispute between the Lieutenant-Governor-in-Council and a local government would look like around this? I believe the minister or the government is required to engage in consultation before using this section. Can the minister just sort of take us through what this power to rescind local government bylaws would look like at a practical level?

[\[1700\]](#)

Hon. G. Abbott: The examples that we might see being engaged by these sections are — I think the member offered up a couple of good examples of where these things might occur — where a municipality specifically zoned out the opportunity for harm reduction services. As an example, the member mentioned needle exchange. That would be one example of potentially zoning out harm reduction services. We think the other example that the member used around the provision of birth control or other reproductive issues might also be a possibility where, specifically, a municipality attempted to zone out those services.

Obviously, the province is concerned where such an event occurs. There are processes that are engaged in a couple of places here. Subsections 120(2) and 120(6) to 120(8) would all have a bearing on the process, which begins with a consultation on the issue and later goes to management or resolution of the dispute. Ultimately, should we be unable to resolve those things through those processes, the province could override a municipality that, again as an example, had zoned out any provision for harm reduction services in its municipality.

Sections 120 to 122 inclusive approved.

On section 123.

A. Dix: I gather this is a new section. Perhaps the minister can.... It deals with regulations respecting rental accommodations. What kinds of things is the government seeking to remedy here? One can think of a whole series of things in terms of prescribing health and safety standards that must be met by landlords of rental accommodations. But this is, I understand, a new set of potential regulations.

I'm wondering why, in this updating of the public health legislation by the government, this is included and what problems it would seek to remedy.

[\[1705\]](#)

Hon. G. Abbott: I will try to be deliberate in my comments here, as well, so as to carefully set out what

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is being intended by this section 123. The section has been structured carefully so as not to infringe on the authority of the ministry for housing in relation to these issues, nor to impinge in any way on the bodies which would be embraced generally in the landlord-tenant act and so on.

What we are specifically addressing in this section is tenants who may be vulnerable because of a mental health issue or a mental capacity limitation. The provision exists to allow for the issues that may be concerned in respect of the treatment of such vulnerable individuals in relation to their landlord. In the landlord-tenant act we typically have parties of full capacity dealing with one another and their issues.

Our concern in this section is with the vulnerable population who, because of diminished mental capacity or mental health issues, may not be capable of dealing with the landlords in the same way that one would expect in a landlord-tenant relationship.

Sections 123 to 125 inclusive approved.

On section 126.

Hon. G. Abbott: I'd like to move the amendment to section 126 standing in my name on the orders of the day.

[SECTION 126, by deleting the text shown as struck out:

General powers respecting regulations

126 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) A person must not read any section of this Part as limiting the general powers to make regulations described in subsection (1).

(3) A regulation made under this Act in respect of a person, facility, place, procedure or thing may

- (a) establish classes of persons, facilities, places, procedures or things, and
- (b) make regulations that are different for different classes of persons, facilities, places, procedures or things.

(4) A regulation made under this Act may limit the application of the regulation

- (a) to one or more geographic areas, and
- (b) to one or more classes of persons, facilities, places, procedures or things.

(5) A regulation made under this Act may confer a discretion on the minister, the provincial health officer or a health officer, ~~except the power to make a regulation.~~

(6) A regulation made under this Act may adopt by reference, in whole or in part and with any changes the Lieutenant Governor in Council considers appropriate, a regulation, code, standard or rule

- (a) enacted as or under a law of another jurisdiction, including a foreign jurisdiction, or
- (b) set by a provincial, national or international body or any other body that may make codes, standards or rules.

(7) Unless otherwise stated, a code, standard or rule referred to in subsection (6) is adopted as amended from time to time.

(8) If, in a regulation made under this Act, the Lieutenant Governor in Council provides that contravention of the regulation is an offence, the Lieutenant Governor in Council may provide that a person who commits the offence is, in addition to a penalty imposed under section 107 [*alternative penalties*], liable on conviction to a fine not exceeding \$200 000 or to imprisonment for a term not exceeding 6 months, or to both.]

[\[1710\]](#)

Amendment approved.

Section 126 as amended approved.

Sections 127 to 161 inclusive approved.

On the title.

A. Dix: On the title, I know that the minister would want to do this. This kind of legislation requires just enormous amount of work over a period of years. I think the minister will acknowledge this, and it's just to congratulate particularly the staff, in this case, who have worked on this process through that time. I know that a lot of consultation and a lot of work goes forward.

This is very important legislation and not controversial in the usual way. First, I just wanted to congratulate all of the people who contributed to this process, and I'm sure the minister would like to do the same.

Hon. G. Abbott: I appreciate the member's comments very much. The member is right. There has been an enormous amount of work that has gone into the preparation of this Public Health Act. When I became the Health Minister, about three years ago now, work was underway with respect to a renewed, new Mental Health Act for the province of British Columbia, and I think the work had been in progress for years before that.

I do want to thank Dr. Emerson, Dr. Kendall and the many, many folks in the public health section of the ministry for all the work that has been undertaken and, as well, the many capable officials in the Ministry of Health who have assisted with that process. Thank you to the member for his comments.

Title approved.

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

Motion approved.

The committee rose at 5:13 p.m.

The House resumed; Mr. Speaker in the chair.

Reporting of Bills

PUBLIC HEALTH ACT

Bill 23, Public Health Act, reported complete with amendments.

[Page 12906]

Mr. Speaker: When shall the bill be considered as reported, Minister?

Hon. G. Abbott: By agreement, now, Mr. Speaker.

Leave granted.