

RESTRUCTURING ADMINISTRATIVE JUSTICE AGENCIES

Core Services Review - Phase 1 Report and Results

February 5, 2002

CONTENTS

Background	3
Administrative Justice Project	3
Core Services Review	4
Agencies Being Reconfigured	8
BC Benefits Tribunal and BC Benefits Appeal Board	8
Commercial Appeals Commission	10
Criminal Records Review Program Adjudicators, Criminal Records Review Appeal Panel	11
Disaster Financial Assistance Appeal Board	12
Liquor Appeal Board	13
Manufactured Home Park Dispute Resolution Committee (see Residential Tenancy Office)	33
Motion Picture Appeal Board	14
Motor Dealer Customer Compensation Fund Board	15
Private Post Secondary Education Commission	16
Travel Assurance Board	17
Agencies Being Restructured	18
Building Code Appeal Board, Electrical Safety Appeal Board, Elevating Devices Appeal Board, Gas Safety Appeal Board, Power Engineers and Boiler and Pressure Vessel Safety Appeal Board	18
Children's Commission (Child, Youth and Family Advocate	20
Community Care Facility Appeal Board	22
Environmental Appeal Board, Forest Appeals Commission	23
Land Reserve Commission	24
Mineral Tax Review Board	25
Property Assessment Review Panels, Property Assessment Appeal Board	26
Agencies Being Improved	27
Coroner's Service	27
Expropriation Compensation Board	29
Financial Institutions Commission	30
Forest Practices Board	31

Mental Health Review Panels	32
Residential Tenancy Office	33
Review Board (<i>Criminal Code</i>)	35
Securities Commission	36
Agencies Remaining Essentially Unchanged	38
Board of Parole	38
Fire Commissioner	39
Health Care Practitioners Special Committee for Audit	40
Mediation and Arbitration Board (Energy and Mines)	41
Agencies Undergoing Further Review and Discussion	42
Agricultural Marketing Boards (13, including BC Marketing Board)	42
Commissions of Inquiry (under the <i>Inquiry Act</i>)	42
Employment Standards Tribunal	42
Farm Practices Board	43
Gaming Commission	43
Health Care and Care Facility Review Board	43
Human Rights (Advisory Council, Commission and Tribunal)	44
Labour Relations Board	44
Medical and Health Care Services Appeal Board	45
Medical Services Commission	46
Motor Carrier Commission	46
Public Service Appeal Board	46
Racing Commission	46
Utilities Commission	47
Workers' Compensation Board, Workers' Compensation Review Board, Related Agencies	47

BACKGROUND

This report sets out the results of the first Phase and the current status of the Core Services Review of the province's administrative agencies. Its results:

- underscore government's ongoing commitment to a strong system of administrative justice; and
- will allow that system to meet the needs of the people it serves in a manner and at a cost that is affordable within the current fiscal environment.

Administrative Justice Project

On July 27, 2001, the Attorney General initiated the Administrative Justice Project (the Project) for the purpose of reviewing the province's system of administrative justice. The Project is a major initiative and the first of its kind in British Columbia. It is examining a broad range of issues including agency mandates, administrative practices and procedures, appointments, training, performance measurement and public accountability. Terms of Reference for the Project are available on www.gov.bc.ca/ajp.

The objectives of the Project are to ensure that:

- administrative agencies meet the needs of the people they serve;
- their administrative processes are open and transparent;
- their mandates are modern and relevant; and
- government fulfills its obligations by providing the legislative and policy frameworks administrative agencies require to carry out their independent mandates effectively.

To meet these objectives, the Project has released several background papers on issues such as human rights, standards of review and administrative agencies and the Charter. Additional papers are currently being prepared and a White Paper – addressing the system as a whole – will be released for public discussion in May 2002. Following this discussion, the Project will make specific recommendations to government to enhance the administrative justice system.

The Project's outcomes are expected to foster greater public accountability and transparency, to enhance fairness and impartiality in decision-making and to facilitate public access, public service excellence and professionalism.

It is fundamental to the Project's success that government maintains its commitment to a system of administrative justice that provides, in appropriate circumstances:

- an independent arm's length review or appeal from an initial decision of a public official;
- an informal and economical adjudicative process as an alternative to the more formal processes of the courts;
- a timely and impartial decision that fully and finally resolves the issues between the parties;
- a transparent, accessible and accountable review that complies with the principles of natural justice and can withstand the supervising scrutiny of the courts.

Core Services Review

The Core Services Review is a government-wide initiative established for the purpose of ensuring that all public programs and services are modern, relevant and affordable. It applies to all government ministries, Crown corporations and more than 700 agencies, boards and commissions.

The Project is responsible for facilitating the Core Services Review of the more than 60 administrative agencies included within its terms of reference. These agencies are diverse and include the labour relations board, the forest practices board, the commercial appeals commission and the workers' compensation board, to name just a few. There are 17 government ministers who have executive responsibility for one or more these agencies.

Guiding Principles for the Review

On August 16, 2001, the Project issued Guidelines for the Core Services Review of Administrative Agencies to deputy ministers and agency chairs (also available at www.gov.bc.ca/ajp). The guidelines set out the principles and objectives of the review and establish the process for conducting the review and reporting its results and recommendations to Cabinet.

The guiding principles for the Core Services Review of administrative agencies are to ensure that:

- when a public official makes an administrative decision and the stakes are high, citizens and businesses can expect a fair and impartial review or appeal; and
- when supported by sound public policy, opposing parties in an administrative proceeding can expect an opportunity to access an informal dispute resolution process as an alternative to the courts.

Key Objectives

As part of government's New Era commitment, the Core Services Review poses fundamental questions about the nature, quality and timeliness of the services that administrative agencies offer to people and their communities. Its key objectives are to ensure that:

- non-essential programs and services are eliminated;
- taxpayers' dollars are directed to the highest priorities and to those areas where government, in the broadest sense, is best placed to deliver services;
- the most appropriate service delivery and organizational models are being used to best meet the needs of British Columbians; and
- public programs and services continue to address market imperfections, equity and social justice concerns, environmental considerations and public security and safety imperatives.

Review and Assessment

The Core Services Review is intended to provide an opportunity to "rethink" fundamental assumptions about the statutory mandates, responsibilities, programs and services carried out by these agencies. The review requires each host ministry or administrative agency to:

- examine core functions, including related programs and services, to ensure that they are relevant and continue to serve a compelling public interest;
- clarify program and policy responsibilities in relation to government ministries, other administrative agencies and other sectors of society;
- make recommendations to eliminate overlap and duplication or to provide services at less cost through innovative or alternative delivery models;
- make recommendations to implement new accountability processes and performance objectives through the *Budget Transparency and Accountability Act*; and
- make recommendations to ensure that public programs are affordable and sustainable within the province's fiscal framework.

Under the guidelines for the review, host ministries and administrative agencies are required to address five core questions.

Phase 1 Questions

In Phase 1, the review focused on issues of mandate and considered:

Public Interest Test

Does the administrative agency, in its mandate, programs and activities, continue to serve a compelling public purpose?

Affordability Test

Are the costs of the administrative agency, including the costs of its programs and activities, affordable in the current fiscal environment?

Effectiveness and Role of the Public Sector Test

Are we doing the right thing? Is there a legitimate and essential role for the public sector in the field in which the administrative agency operates?

Phase 2 Questions

In the second Phase of the review, host ministries and administrative agencies will consider:

Efficiency Test

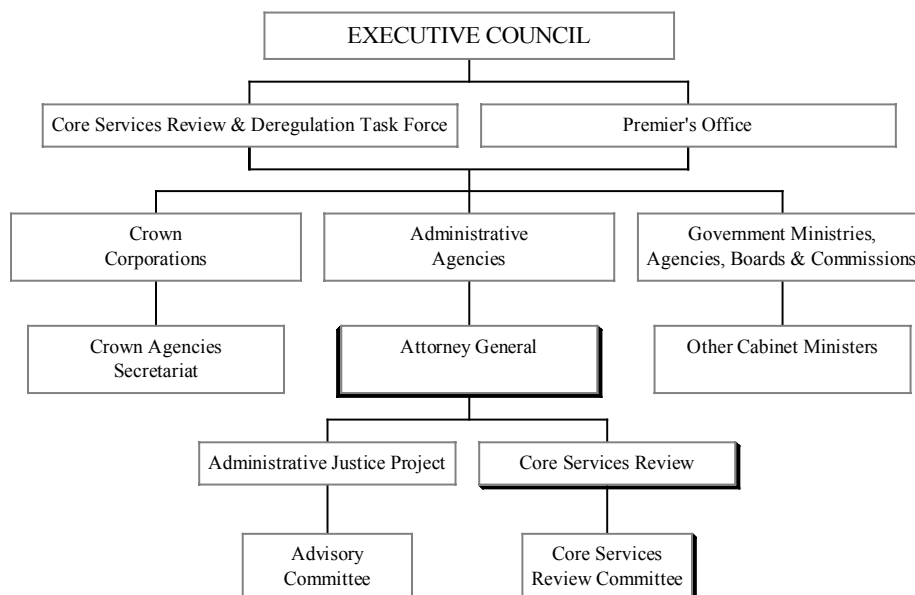
Is the current organizational and service delivery model the most efficient way to provide, manage or deliver the administrative agency's services?

Accountability Test

Are current measures and reporting mechanisms the most effective way to account for the services of the administrative agency and to measure its ongoing relevance, performance and effectiveness?

Reporting and Decision-Making

The following public officials and agencies are involved in making decisions about the outcomes of the Core Services Review of administrative agencies.



Executive Council – The Executive Council is responsible for approving the recommendations of the Core Services Review and Deregulation Task Force. The chair of the Executive Council is the Premier. In December 2001, the Executive Council approved the Task Force's recommendations for the administrative agencies that have completed Phase 1 of the review.

Core Services Review and Deregulation Task Force (Task Force) – The Task Force is chaired by the Premier. Its members include Cabinet ministers and members of the government caucus. The Task Force is responsible for overseeing the Core Services Review process for all public programs, ministries and agencies. On November 15 and 22 and on December 4, 2001, the Task Force received and considered Phase 1 presentations from or on behalf of more than 40 administrative agencies.

Attorney General – The Attorney General, as sponsor of the Administrative Justice Project, ensures that the Core Services Review for each administrative agency is carried out, complete, consistent with the objectives of the Project and presented to the Task Force on a timely basis.

Host Ministry or Agency Chair – The minister responsible for each administrative agency (the host minister) determines whether the review will be carried out by the host ministry or the agency chair and makes final recommendations to the Attorney General and the Task Force on outcomes.

Timelines for the review

The schedule for the Core Services Review is generally as follows:

Phase 1: Mandate review – by January 31, 2002

Phase 2: Service delivery review – by April 30, 2002

Phase 3: Implementation – following executive council approval

Phase 4: Continuous Improvement – following implementation

To date, 47 administrative agencies have made Phase 1 presentations to the Task Force. Some were asked to carry out a further review and assessment. Four are awaiting Executive Council review and approval. The remaining agencies were granted specific exemptions from Phase 1 and Phase 2 timelines in order to accommodate:

- the nature and complexity of their particular reviews; or
- the need to co-ordinate their reviews with related or consequential initiatives of either the provincial government or an interprovincial or national regulatory body.

AGENCIES BEING RECONFIGURED

The following agencies will be reconfigured as a result of the Phase 1 of the Core Services Review.

Agencies: **BC Benefits Tribunal and BC Benefits Appeal Board**

Host Ministry: Human Resources

Annual Budget: \$1.81 million

Mandate and Operations:

- The BC Benefits Tribunal and the BC Benefits Appeal Board provide two levels of appeal for clients who disagree with ministry decisions about income benefits and allowances. About 6,000 applications are challenged each year. Most (75%) are resolved through reviews within the ministry.
- About 1,500 disputes are heard each year by the BC Benefits Tribunal, a community-based, lay tribunal with three members – a chair, appointed by the minister, and two nominees, chosen respectively by the client and the ministry.
- About 400 cases a year go from the tribunal to the BC Benefits Appeal Board. The board consists of a chair, a vice-chair and nine members, all appointed by the government. The board does not hear arguments or re-examine facts. Rather, it reviews written submissions to determine if the tribunal erred on a question of law.
- A client or the ministry can challenge a board decision, in an application for judicial review, if either believes the board made an error in law.

Shortcomings:

- The current appeal system includes three internal ministry reviews and two external reviews. Multiple levels of appeal create a barrier to timely decision-making and result in ongoing uncertainty for clients and their families. They also dilute accountability within the ministry and undermine confidence in the BC Benefits system.
- The method for making appointments to the tribunal pits ministry and client nominees against one another, making the process adversarial and creating the potential for bias and advocacy in decision-making.

Pending Improvements:

- Resources can be better focused on improving the fairness of initial decisions at the field level by enacting more precise regulations, providing better staff training and improving accountability at the field level.
- Clients will continue to have a right of external review. The appeal process will be streamlined to provide a single, impartial, independent appeal through a new Employment and Assistance Appeals Tribunal.
- Tribunal proceedings will be oral and regionally-based, improving access for clients and providing a more open, transparent process. A roster of trained chairs and members will be appointed by the minister and chosen on a rotating basis.

Timing and Next Steps:

- Changes to the tribunal and appeal board have been announced as part of the ministry's service plan.
- Legislation to facilitate these changes is planned for Spring, 2002. Implementation is expected to begin in August.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Commercial Appeals Commission

Host Ministry: Public Safety and Solicitor General

Annual Budget: \$252,000

Mandate and Operations:

- The commission was established to hear appeals under 15 provincial statutes that are essentially commercial in nature. These involve areas such as funeral services, credit reporting, debt collection, real estate and pension benefits.
- The commission receives an average of 25 applications for appeal each year. Most involve disciplinary decisions made by the Superintendent of Real Estate.
- No appeals have ever been filed under the *Consumer Protection Act*, the *Pension Benefits Standards Act* or the *Credit Union Incorporation Act*.
- Over the last four years, the commission has issued approximately 12 decisions per year, allowing slightly less than 50 percent.

Shortcomings:

- Given its extremely low level of activity – and the fact that other processes exist to protect consumer rights in commercial transactions – the commission represents an unnecessary level of review. Government need not provide an alternative to the courts for resolving a small number of commercial disputes.

Pending Improvements:

- The commission will be eliminated.
- The 15 statutes covered by its mandate will be amended, as needed, to ensure that effective internal procedures are in place to provide informal, timely, fair and impartial reviews.

Timing and Next Steps:

- Legislation is being prepared for Spring, 2002.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agencies: Criminal Records Review Program Adjudicators
Criminal Records Review Appeal Panel

Host Ministry: Public Safety and Solicitor General

Annual Budget: \$150,000

Mandate and Operations:

- The two levels of review and appeal operate under the *Criminal Records Review Act*. The Act is intended to protect children from physical and sexual abuse by screening individuals who work with them.
- Anyone employed by, licensed by, or receiving operating funds from the province—and having unsupervised access to children – must undergo a criminal record check. About 60,000 checks are carried out each year.
- When a person is found to have a relevant criminal record, an independent adjudicator assesses the level of risk and determines whether the person is unsuitable for the job. Five people are deemed unsuitable each year.
- Individuals may appeal an adjudicator's findings to the Criminal Records Review Appeal Panel. Eleven appeals have been filed since the program's inception in 1996. Only two determinations of risk were upheld.

Shortcomings:

- In the vast majority of cases adjudications are straightforward and decisions could be made in a more expeditious fashion than is currently the case. The Appeal Panel has not been utilized in the last two years.

Pending Improvements:

- The adjudication and appeal process will be eliminated. The registrar's initial decision-making process can and does provide an informal, timely, fair and impartial review.

Timing and Next Steps:

- Legislation to amend the *Criminal Records Review Act* is being prepared for Spring, 2002.
- As part of Phase 2 of the Core Services Review, the ministry will carry out a full review of the program, examining its effectiveness and considering alternative service delivery models and submit a progress report to the Administrative Justice Project by March 15, 2002.

Agency: **Disaster Financial Assistance Appeal Board**

Host Ministry: Public Safety and Solicitor General

Annual Budget: No separate budget. The board's work carried out by 3 senior government employees.

Mandate and Operations:

- The Director of the Provincial Emergency Program (PEP) has authority to award compensation to uninsured individuals who suffer injuries or property losses as a result of natural disasters. The Director may also determine that someone applying for compensation is ineligible.
- Over the last three years, PEP received a total of 50 applications for disaster financial assistance and the Disaster Financial Assistance Appeal Board heard 11 appeals. In every case, the board upheld the original PEP decision.

Shortcomings:

- The board has no specialized expertise in disaster relief and its process adds unnecessary complexity and delay.

Pending Improvements:

- The Disaster Financial Assistance Appeal Board will be eliminated. The Director of PEP will be responsible for the final administrative review of decisions around disaster financial assistance.

Timing and Next Steps:

- Legislation to amend the *Emergency Program Act* is being prepared for Spring, 2002.

A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: **Liquor Appeal Board**

Host Ministry: Public Safety and Solicitor General

Annual Budget: \$52,000

Mandate and Operations:

- The Liquor Appeal Board hears appeals from decisions of the general managers of liquor licensing and liquor distribution, regarding liquor licensing, enforcement, listing and de-listing. Its powers respecting licensing and enforcement are limited to considering errors of law or procedural unfairness.
- The board has 11 members, appointed by the minister. It receives an average of 18 applications for appeals each year. The appeal process takes a total of about six months.

Shortcomings:

- It is unnecessary for government to provide an alternative to the courts for reviewing a small number of decisions in a commercial environment.

Pending Improvements:

- The board will be eliminated. Final administrative reviews will be conducted by the general managers.
- The courts will continue to have jurisdiction to review questions of natural justice and fairness.

Timing and Next Steps:

- Legislation to amend the *Liquor Control and Licensing Act* and the *Liquor Distribution Act* is being prepared for Spring, 2002.

A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Motion Picture Appeal Board

Host Ministry: Public Safety and Solicitor General

Annual Budget: \$15,000

Mandate and Operations:

- The Motion Picture Appeal Board hears appeals from decisions of the Director of Film Classification. These decisions include the refusal of theatre licences, the seizure of motion pictures and the classifications of films and motion pictures.
- The board has five members, appointed by the minister. It receives an average of seven appeals each year.

Shortcomings:

- It is unnecessary for government to provide an alternative to the courts for reviewing a small number of decisions in a commercial environment.

Pending Improvements:

- The board will be eliminated. Final administrative reviews will be conducted by the Director of Film Classification.
- The courts will continue to have jurisdiction to review questions of natural justice and fairness.

Timing and Next Steps:

- Legislation to amend the *Motion Picture Act* is being prepared for Spring, 2002.

A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Motor Dealer Customer Compensation Fund Board

Host Ministry: Public Safety and Solicitor General (CSE)

Annual Budget: No significant public funding. The fund is self-sustaining.

Mandate and Operations:

- The Motor Dealer Customer Compensation Fund Board compensates consumers affected by motor dealer business failure or wrongdoing.
- Since 1996, the board has paid out more than \$1 million to consumers in response to about 380 claims. The board's fund balance is \$1.56 million.
- The fund is established and sustained through industry levies. Government provides the equivalent of 0.5 of an FTE by way of administrative support.

Shortcomings:

- There is no compelling public need for government's continued involvement in the operations of the board as its involvement is an unnecessary interference in the conduct of private businesses.

Pending Improvements:

- As an interim step, the board's responsibilities for the administration of the fund will be transferred to the Registrar of Motor Dealers.
- Eventually, the board will be established as a fully self-regulating industry body, responsible for managing and maintaining the fund.

Timing and Next Steps:

- No legislation is required to implement to interim transfer of responsibility to the registrar. Legislation to establish the board as a self-regulating industry body will be developed for a future session of the Legislature.

A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Private Post Secondary Education Commission

Host Ministry: Advanced Education

Annual Budget: \$1.45 million

Mandate and Operations:

- The Private Post Secondary Education Commission regulates 1,133 private vocational, trades and English language schools, serving 282,000 students.
- It also carries out the voluntary accreditation of institutions whose students are then eligible for student financial assistance (237 of the 1,133).
- The commission has 11 members appointed by the government, supported by 14 FTEs. In 2000/2001, its revenues (which included a government grant of \$150,000) exceeded its expenditures by about \$50,000.

Shortcomings:

- The commission is already largely self-supporting. The small government subsidy and the appointment of the commission's members by government represent unnecessary oversights of private businesses.
- The current mandate of the commission is overbroad and unfocused.

Pending Improvements:

- The commission will be eliminated. A new, self-regulating, self-funding, industry-based board will be established, with government appointing only one member to ensure the public interest is served.
- The mandate of the board will be narrowed to encompass the registration of career-related educational institutes.
- Government will continue to set standards for voluntary accreditation for those institutions wishing to participate in the BC Student Financial Assistance Program.

Timing and Next Steps:

- Legislation to amend the *Private Post Secondary Education Act* is being prepared for a future session of the Legislature.

A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Travel Assurance Board

Host Ministry: Public Safety and Solicitor General

Annual Budget: No significant public funding. The travel assurance fund is self-sustaining.

Mandate and Operations:

- The Travel Assurance Board compensates consumers who have paid for, but not received, recreational travel services.
- Since 1979, the board has paid out more than \$6 million to over 8,000 consumers and registrants. The board's fund balance is currently \$3.25 million.
- The fund is established and sustained through industry levies. Government provides the equivalent of 0.5 of an FTE by way of administrative support.

Shortcomings:

- There is no compelling public need for government's continued involvement in their operations of the board as its involvement is an unnecessary interference in the conduct of private businesses.

Pending Improvements:

- As an interim step, the board's responsibilities will be transferred to the Registrar of Travel Agents.
- Eventually, the board will be established as a fully self-regulating industry body, responsible for managing and maintaining the fund.

Timing and Next Steps:

- No legislation is required to implement the proposed changes.

A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Timing and Next Steps:

- Legislation to establish a Safety Authority is being prepared for a future session of the Legislature.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Children's Commission (Child, Youth and Family Advocate)

Host Ministry: Attorney General

Annual Budget: \$2.9 million

Mandate and Operations:

- The Children's Commission was established in 1997 to review and monitor government services for children and youth, and to advise government on improving these services. The commission also conducts research and undertakes education and advocacy to improve children's services.
- The commission hears complaints from children or their representatives about alleged breaches of children's rights and about government in providing services for children. Seventeen such cases went before the commission's tribunal division in 2000.
- The commission reviews all child deaths in BC and may undertake investigations and makes recommendations. As of April, 2001, the commission had made a total of 828 recommendations to government, of which 301 were implemented.

Shortcomings:

- There is a compelling need to ensure that children's voices are heard and that their rights are protected. However, the Children's Commission duplicates a number of functions already carried out by other independent public agencies. These include complaint resolution (Ombudsman), death review and investigation (BC Coroner's Service) and advocacy (Child, Youth and Family Advocate).
- In duplicating levels of review and appeal for decisions and actions affecting children and youth, the Children's Commission also dilutes accountability in the Ministry of Children and Family Development and in other child-serving sectors of the government.

Pending Improvements:

- The Children's Commission and the Office of the Child, Youth and Family Advocate will be eliminated. Key functions of these two offices will be consolidated under a new Children's Officer, mandated to monitor the child welfare system and provide education and systemic advocacy.
- Internal complaint processes regarding services to children will be strengthened, with external reviews carried out by the Ombudsman.
- Responsibility for reviewing and, where necessary, investigating children's deaths will be transferred to the BC Coroner's Service.

Timing and Next Steps:

- Legislation to create the new Children's Officer is being prepared for Spring, 2002.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.
- An assessment of the effectiveness of the Children's Officer and its continued relevance will be carried out within 5 years.

Agency: Community Care Facility Appeal Board

Host Ministry: Health Services

Annual Budget: \$48,000 (approximate cost of hearings in 2000/2001)

Mandate and Operations:

- The Community Care Facility Appeal Board hears appeals from licensing decisions for community care facilities. These facilities provide care to children and vulnerable adults, including day care centres for children and adults and care homes for adults with developmental and other disabilities.
- The board consists of 10 members appointed by the government, including academics, professionals and care providers. The board hears an average of 13 cases a year.

Shortcomings:

- There is overlap and duplication in the review jurisdictions of the Director of Licensing, the variance committee and the board.

Pending Improvements:

- The board's mandate will be reviewed in conjunction with the review of the *Community Care Facility Act* to streamline and simplify the decision and review processes of the director, the variance committee and the board.

Timing and Next Steps:

- Legislation is being prepared for Spring, 2002.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agencies: **Environmental Appeal Board**
 Forest Appeals Commission

Host Ministries: Water, Land and Air Protection; Health Services
 Forests; Sustainable Resource Management

Annual Budget: \$1.97 million (combined)

Mandate and Operations:

- These two agencies, which are already integrated at the administrative level, hear appeals from decisions of public officials about environmental protection, public health and safety and the allocation and management of publicly-owned natural resources.
- The agencies share a full-time board chair and have a total of 36 part-time appointees, including civil engineers, biologists, lawyers, foresters and forestry professors.
- In 2000, the two agencies received 178 applications for appeal and issued 139 decisions.

Shortcomings:

- Both agencies serve a compelling public purpose by providing an impartial forum for the resolution of disputes. The agencies could improve their efficiency by fully consolidating their operations.

Pending Improvements:

- The board and the commission will be consolidated into a single tribunal, allowing for further administrative efficiencies through shared services and cross-appointments.

Timing and Next Steps:

- Legislation required to implement the consolidation is being prepared for Spring, 2002.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Land Reserve Commission

Host Ministry: Sustainable Resource Management

Annual Budget: \$3.3 million

Mandate and Operations:

- The Land Reserve Commission administers the Agricultural Land Reserve (ALR) and the Forest Land Reserve (FLR). The reserves protect farm and forest lands and encourage healthy farming and forest sectors.
- Historically, the commission consisted of 11 members appointed by the government. In January, 2002, the members were replaced by five interim commissioners.

Shortcomings:

- The commission has been criticized for its failure to respond adequately to community needs. It can better serve the public by moving from a centralized to a regional structure.
- The Forest Land Reserve can be phased out and replaced by new government programs, including the working forest initiative.

Pending Improvements:

- The commission's mandate will be redefined and limited to the administration of the ALR only. The commission itself will be restructured, with six regional panels and one provincial chair, allowing it to respond more effectively to community needs.
- More land-use decisions will be delegated to local governments and monitored by the commission.
- The FLR will be phased out, in cooperation with other government agencies and private forest landowners, and replaced by new government initiatives.

Timing and Next Steps:

- Legislation to restructure the commission is being prepared for Spring, 2002.
- The transition from the FLR to the working forest model will be completed in 2003.

A written report on proposed administrative review processes will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Mineral Tax Review Board

Host Ministry: Provincial Revenue

Annual Budget: \$5,000 (approximate)

Mandate and Operations:

- The Mineral Tax Review Board hears appeals from mine operators who disagree with their tax assessments.
- On average, five appeals are filed each year. About half are settled without a hearing.

Shortcomings:

- Most provincial tax appeals are decided by the minister. The board provides the only independent external review of its kind in the province. It is small and seldom utilized.

Pending Improvements:

- The ministry will undertake a comprehensive review of provincial tax appeals and make recommendations for an integrated review process. The board's mandate will be considered in this review.

Timing and Next Steps:

The ministry will report back to the Administrative Justice Project with recommendations on tax-appeal consolidation and a response to the Phase 2 questions under the Core Services Review by June 30, 2002.

Agencies: **Property Assessment Review Panels**
 Property Assessment Appeal Board

Host Ministry: Community, Aboriginal and Women's Services

Annual Budget: \$0.625 million – Review Panels
 \$1.4 million – Appeal Board

Mandate and Operations:

- The review panels and appeal board hear appeals from decisions of BC Assessment Authority property tax assessors. There are about 36,000 property assessment appeals each year.
- 22,000 disputes are referred to the review panels for determination at the first level of appeal.
- 1,100 disputes proceed from the review panels to the appeal board.

Shortcomings:

- The current system does not appear to strike the right balance between the goals of cost-effectiveness and the principles of administrative justice and fairness. The existing system should be made more efficient.

Pending Improvements:

- By the end of December 2003, the existing two-level appeal system will be improved by streamlining procedures and by limiting the types of complaints that can be reviewed by both the review panels and the appeal board.
- By the end of December 2004, the ministry will complete an evaluation of the costs and benefits of a single level appeal system and make recommendations to government for implementing this system if appropriate.

Timing and Next Steps:

The Ministry will obtain the views of the Attorney General on the recommended appeal structure before the implementation plan is finalized.

AGENCIES BEING IMPROVED

The following agencies will be improved as a result of the Phase 1 of the Core Services Review.

Agency: **Coroner's Service**

Host Ministry: Public Safety and Solicitor General

Annual Budget: \$8.47 million

Mandate and Operations:

- The Coroner's Service investigates unexpected, unattended or unexplained deaths to determine how, when and where an individual died. It also issues public advisories about such things as potentially harmful drugs to help prevent future deaths.
- The service includes 38 FTEs and 128 part-time, fee-for-service coroners. In 2000, the service investigated 6,700 deaths, conducted over 2,000 autopsies and held 12 inquests.

Shortcomings:

- The coroner's service fulfills an essential public purpose. However, there is room for improvement in the overall timeliness and effectiveness of its operations.
- There is overlap and duplication between the service and the Children's Commission in the investigation of children's deaths.

Pending Improvements:

- The service will develop protocols with ICBC, the Workers' Compensation Board and hospitals to clarify roles and enhance the timeliness and effectiveness of death investigations.
- The service will enhance its use of technology and improve its training and accreditation processes.
- The service will assume responsibility for child-death investigations, reinforcing its role as the lead agency with responsibility in this area.

Timing and Next Steps:

- Legislation to eliminate the current responsibilities of the Children's Commission for death investigations is being prepared for Spring, 2002. No other legislative changes are required.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Expropriation Compensation Board

Host Ministry: Attorney General

Annual Budget: \$569,000

Mandate and Operations:

- The Expropriation Compensation Board provides an alternative to the courts in settling disputes about compensation for expropriated land.
- The board consists of a full-time chair, vice-chair and nine part-time members, appointed by the government. Cases are decided through a public hearing process, led by a three-member panel of the board, in a community close to the expropriated property.
- In 2000, the board conducted 18 public hearings, lasting a combined total of 58 days.

Shortcomings:

- The board serves a compelling public purpose in resolving disputes between individuals and government over the value of expropriated land. However, the board will take steps to improve its efficiency.

Pending Improvements:

- The board will introduce mediation and other forms of early dispute resolution to reduce delays and provide more timely services to the public.
- The board will achieve cost savings and efficiencies through video-conferencing and shared services

Timing and Next Steps:

- If necessary to authorize mediation, legislation to amend the *Expropriation Act* will be prepared for Spring, 2002. No other legislation is required.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Financial Institutions Commission

Host Ministry: Finance

Annual Budget: \$6.8 million (fully recovered from fees and assessments on industry participants)

Mandate and Operations:

- The Financial Institutions Commission regulates credit unions, insurance companies, trust companies, mortgage brokers and the real estate industry. Its purpose is to protect consumers from the effects of institutional insolvency and from improper market conduct. The commission also insures deposits and non-equity shares in BC's 71 retail credit unions.
- The Commission consists of the Deputy Minister of Finance and up to 11 commissioners, appointed by the government. It employs 75 FTEs.
- The commission monitors the ongoing performance and practices of the institutions covered by its mandate and makes recommendations to the minister on major regulatory decisions affecting these institutions.

Shortcomings:

- The commission services a compelling public purpose in overseeing the province's financial institutions. The commission will take steps to improve its efficiency in serving both industry and consumers.

Pending Improvements:

- The commission will reduce the regulatory burden on institutions within its mandate and harmonize regulations with other jurisdictions.
- It will improve its efficiency by focusing on monitoring higher-risk institutions and by increasing delegation to the self-regulatory organizations it currently oversees.
- The commission will provide better information to consumers to help them understand their rights and the regulations affecting financial institutions.

Timing and Next Steps:

- No legislation is required to achieve these improvements.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Forest Practices Board

Host Ministry: Forests

Annual Budget: \$5.05 million

Mandate and Operations:

- The Forest Practices Board operates as an independent watchdog for sound forest practices under the *Forest Practices Code*. It conducts random audits, responds to public complaints, evaluates government's enforcement of the code, and makes public reports and recommendations.
- The board consists of a full-time chair and five part-time members, appointed by the government and supported by 33 FTEs.
- Since its inception in 1996, the board has responded to several hundred public concerns, investigated more than 75 formal complaints, conducted 50 compliance audits and made over 250 recommendations to improve forest practices.

Shortcomings:

- The board has a role to play during the restructuring of the province's forestry management practices. However, it should implement the administrative changes it has proposed to enhance its focus and improve its efficiency.

Pending Improvements:

- The board will streamline its work in relation to its role in industry audits and implement the other administrative changes it proposed in Phase 1 of the Core Services Review.

Timing and Next Steps:

- A progress report and written response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.
- A review of the board's mandate should be addressed as part of the forestry restructuring process and within 5 years.

Agency: **Mental Health Review Panels**

Host Ministry: Health Services

Annual Budget: \$560,000

Mandate and Operations:

- Mental Health Review Panels determine whether patients who are admitted involuntarily to mental health facilities should be detained or released.
- A panel is convened at the request of the patient or someone acting on the patient's behalf. Each panel has three members – one nominated by the patient, one nominated by the facility, and a chair, selected from a pool of individuals appointed by the minister.
- The agency consists of a full-time chair, nine review panel chairs and three FTEs. It conducted 424 reviews in 1999.

Shortcomings:

- The practice of including patient and facility nominees on each review panel has undermined the panels' impartiality and created an adversarial environment.

Pending Improvements:

- The appointment process for panel members will be revised to permit the minister to appoint all panel members to a roster. This will reduce the potential for adversarial proceedings, bias and advocacy in decision-making. It will reinforce the fairness of the review process.

Timing and Next Steps:

- Legislation to amend the appointment process is being prepared for Spring, 2002.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Timing and Next Steps:

- Legislation is being prepared for Spring, 2002.

A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Review Board (*Criminal Code*)

Host Ministry: Attorney General

Annual Budget: \$1.42 million

Mandate and Operations:

- Established under the *Criminal Code*, the Review Board assesses the mental health of, and potential risk to the public from, individuals who have been charged with a crime, have a mental disorder and are being held in custody. The board determines whether they should be absolutely or conditionally discharged, or detained.
- The board consists of a full-time chair and 20 part-time members, appointed by the government. Each case is heard by a panel, chaired by a lawyer or judge and including a psychiatrist.
- The board conducted 530 hearings in 2000/2001. Its activity level has increased by about 50% since 1997.

Shortcomings:

- The board's mandate and procedures are set out in the Code. However, administrative efficiencies can be implemented to improve the board's services to its clientele.

Pending Improvements:

- The board will achieve cost-savings through improved use of technology, centralized hearings and possibly more full-time panel members.

Timing and Next Steps:

- No legislative changes are required to implement the proposed changes.
- A written progress report and response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Securities Commission

Host Ministry: Competition, Science and Enterprise

Annual Budget: \$27 million

Mandate and Operations:

- The Securities Commission protects and promotes the public interest by regulating trading in securities. It ensures the securities market is fair, and warrants public confidence and it fosters a dynamic and competitive securities industry that provides investment opportunities and access to capital.
- The commission sets rules for fair play in the market, screens market participants, mandates quality information for investment decisions, polices the market for misconduct, educates investors and other market participants and oversees industry self-regulatory organizations.

Shortcomings:

- Regulations place an excessive burden on industry due to their volume and complexity.
- There are delays in responding to emerging market issues.

Pending Improvements:

- The commission will implement a deregulation plan, with two objectives, namely:
 - To impose the minimum burden that provides investor protection and market integrity;
 - Not to unduly compromise uniformity among provincial regulatory requirements.
- Fees charged to market participants will be reduced.
- Regulatory tools will be applied to remove major barriers and risks affecting market efficiency and integrity.
- Organizational culture will be shifted and private sector management methods will be applied.
- Technology will be exploited for efficiency and investor protection.

Timing and Next Steps:

- Deregulation plan — target for the development of a new *Securities Act* and rules by December 31, 2003. This initiative is being coordinated with a national effort to develop uniform securities legislation on the same timetable.
- All improvements are reflected in the commission's 2002-05 service plan.
- The commission will submit a written report to the Administrative Justice Project if it proposes any reforms to its hearing or appeal processes.

AGENCIES REMAINING ESSENTIALLY UNCHANGED

The following agencies will remain essentially unchanged as a result of the Phase 1 Core Services Review.

Agency: Board of Parole

Host Ministry: Public Safety and Solicitor General

Annual Budget: \$617,000

Mandate and Operations:

- The Board of Parole conducts hearings and makes decisions about releasing adult inmates before they have served their full sentences. There are currently 300 people on parole in BC.

Shortcomings:

- No major shortcomings in the board's mandate were identified during Phase 1 of the Core Services Review.

Pending Improvements:

- No significant changes are planned.

Timing and Next Steps:

- A written response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Fire Commissioner

Host Ministry: Community, Aboriginal and Women's Services

Annual Budget: No separate budget, \$20,000 estimated for appeals only

Mandate and Operations:

- The Office of the Fire Commissioner rules on disputes about the application of provincial safety legislation and the BC Fire Code. It hears between 20 and 30 cases a year.

Shortcomings:

- No major shortcomings were identified in the review of the office's mandate.

Pending Improvements:

- The office will address the need for greater public accountability and improved reporting requirements.

Timing and Next Steps:

- A written response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 15, 2002.

Agency: Health Care Practitioners Special Committee for Audit

Host Ministry: Health Services

Annual Budget: Committee has no separate budget
Each appeal hearing costs about \$35,000

Mandate and Operations:

- The Health Care Practitioners Special Committee for Audit hears disputes about billings to the Medical Services Plan by health care practitioners (other than doctors). Hearings are conducted by a panel including representatives of the government, the public and the practitioner's profession.
- The vast majority of disputes are settled through negotiation with the practitioner. Since its inception in 1995, the committee has heard only four appeals.

Shortcomings:

- No significant shortcomings in the committee's mandate were identified by the Core Services Review. Despite its low level of activity, the committee serves a compelling public purpose by overseeing the billing practices of health care practitioners. The committee carries out its mandate effectively and efficiently.

Pending Improvements:

- No changes to the committee are planned.

Timing and Next Steps:

- No further submissions to the Administrative Justice Project are required at this time.

Agency: **Mediation and Arbitration Board**

Host Ministry: Energy and Mines

Annual Budget: \$150,000

Mandate and Operations:

- The Mediation and Arbitration Board resolves disputes between landowners and holders of sub-surface mineral or petroleum rights. Most disputes are related to oil and gas wells on farmland in northeastern BC.
- The board acts as a mediator in helping to determine both the terms of access to private land and the amount of compensation due to the property owner. In cases where a mediated settlement cannot be reached, the board has authority to arbitrate a decision.
- The board has five full-time members and one part-time administrator. It receives about 60 applications a year.

Shortcomings:

- No major shortcomings in the board's mandate were identified during Phase 1 of the Core Services Review.
- There is an outstanding issue between the board and the Land Reserve Commission about permitted uses of agricultural land. This issue should be resolved by the board and the commission.

Pending Improvements:

- No changes to the board are planned.

Timing and Next Steps:

- No further submissions to the Administrative Justice Project are required at this time.

AGENCIES UNDERGOING FURTHER REVIEW AND DISCUSSION

Decisions on the outcomes of the Phase 1 Core Services Review have not yet been finalized for the following administrative agencies.

Agencies: **Agricultural Marketing Boards
13 Boards, including BC Marketing Board**

Host Ministry: Agriculture, Food and Fisheries

Timing and Next Steps:

- The ministry is conducting a comprehensive review of its marketing policies and practices. The mandates of the marketing boards will be addressed in this review. A report is expected by June, 2002.
 - By June 30, 2002, the ministry will advise the Administrative Justice Project as to the outcomes of the comprehensive review and report to the Project on any proposed changes to the appeal processes of the boards.
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Agencies: **Commissions of Inquiry (under the *Inquiry Act*)**

Host Ministry: Attorney General

Timing and Next Steps:

- The ministry will be reviewing the current Act and making recommendations to streamline and modernize its provisions.
 - By June 30, 2002, the ministry will advise the Administrative Justice Project as to the outcomes of the review.
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Agency: **Employment Standards Tribunal**

Host Ministry: Skills Development and Labour

Timing and Next Steps:

- Initial presentations were made to the Task Force on January 29, 2002. Executive Council review and approval is required.
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Agency: Farm Practices Board

Host Ministry: Agriculture, Food and Fisheries

Timing and Next Steps:

- The assessment of the board is linked to the ministry's comprehensive review of its marketing policies and practices. A report on marketing boards is expected by June, 2002.
 - By June 30, 2002, the ministry will advise the Administrative Justice Project as to the outcomes of the review and its implications for the board.
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Agency: Gaming Commission

Host Ministry: Public Safety and Solicitor General

Timing and Next Steps:

- The ministry is developing comprehensive gaming legislation for Spring, 2002.
 - A written report on proposed reforms to the review and appeal process of the gaming commission will be submitted to the Administrative Justice Project by March 15, 2002.
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Agency: Health Care and Care Facility Review Board

Host Ministry: Health Services

Annual Budget: \$120,000

Mandate and Operations:

- The Health Care and Care Facility Review Board provides a decision-making process for adults who are incapable in cases where their family members cannot agree on necessary health care.
- The board has 37 part-time members, including lawyers and medical practitioners. All members are appointed by the minister. Each case is heard by a three-member panel including one lawyer and one medical practitioner.
- Since its inception in February, 2000, the board has received 11 requests for review and conducted five hearings.

Shortcomings:

- The board is small and not well-utilized. There are questions about the timeliness of its decisions.
- The board provides services that may overlap with the services of other public agencies and the courts. The public policy framework for all of these services needs to be assessed in a broader context.

Pending Improvements:

- The mandate and purpose of the board will be examined further within the context of government's overall examination of services to children and adults who cannot make decisions for themselves.

Timing and Next Steps:

- A written report and response to Phase 1 and 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by April 30, 2002.

Agencies: **Human Rights (Advisory Council, Commission and Tribunal)**

Host Ministry: Attorney General

Timing and Next Steps:

- The Administrative Justice Project has released a report on the province's human rights agencies (Human Rights Review). The review is available on the Project's website at www.gov.bc.ca/ajp. The deadline for public comment is February 15, 2002. After that time, the ministry will determine how it intends to proceed.
- A written report on the outcomes of the Human Rights Review and a response to the Phase 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by March 30, 2002.

Agency: **Labour Relations Board**

Host Ministry: Skills Development and Labour

Timing and Next Steps:

- Initial presentations were made to the Task Force on January 29, 2002. Executive Council review and approval is required.
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Agency: Medical and Health Care Services Appeal Board

Host Ministry: Health Services

Annual Budget: \$13,000

Mandate and Operations:

- The Medical and Health Care Services Appeal Board hears appeals from non-residents denied coverage under the BC Medical Services Plan. It has three members, appointed by the government, and shares administration with two other health care review agencies.
- Since 1996, the board has received 30 appeals, of which 11 were later abandoned. Twelve others were still being addressed by the board as of January, 2002.

Shortcomings:

- The board has been ineffective in dealing with appeals in a timely way. Applicants have faced long delays and the board has a backlog of cases.
- There does not appear to be a compelling public purpose for maintaining a stand-alone agency, dealing solely with appeals about residency.

Pending Improvements:

- The board will clear its backlog of cases. Its mandate will be reassessed within 6 months.

Timing and Next Steps:

- A written progress report and response to the Phase 1 and 2 questions under the Core Services Review will be submitted to the Administrative Justice Project by June 30, 2002.
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Agency: **Medical Services Commission**

Host Ministry: Health Services

Timing and Next Steps:

- The review of the Medical Services Commission has been deferred.
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Agency: **Motor Carrier Commission**

Host Ministry: Transportation

Timing and Next Steps:

- The commission is conducting a detailed review of its current mandate within the context of government's deregulation initiative. A written report on proposed reforms to the review and appeal process will be submitted to the Administrative Justice Project by March 15, 2002.
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Agency: **Public Service Appeal Board**

Host Ministry: Management Services

Timing and Next Steps:

- Initial presentations were made to the Task Force on January 29, 2002. Executive Council review and approval is required.
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Agency: **Racing Commission**

Host Ministry: Public Safety and Solicitor General

Timing and Next Steps:

- The ministry is developing comprehensive gaming legislation for Spring, 2002.
 - A written report on proposed reforms to the review and appeal process of the racing commission will be submitted to the Administrative Justice Project by March 15, 2002.
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Agency: Utilities Commission

Host Ministry: Energy and Mines

Timing and Next Steps:

- A comprehensive review of the province's energy policy is currently underway. The results of the review are expected in the spring of 2002.
 - A written report on the review and appeal process will be submitted to the Administrative Justice Project by April 15, 2002.
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Agencies: Workers' Compensation Board
Workers' Compensation Review Board
Related Agencies

Host Ministry: Skills Development and Labour

Timing and Next Steps:

- A comprehensive review of the Workers' Compensation Board, the Review Board and related agencies is currently underway. Consultants' reports are expected to be tabled with the board in the spring of 2002.
 - A written report on the review and appeal process will be submitted to the Administrative Justice Project by April 15, 2002.
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