



To: Community Safety Committee

Date: May 17, 2002

From: Jim Hancock
Fire Chief

File: 1240-02-01

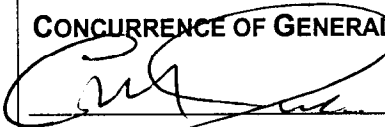
Re: Fire Services Act - Insurance Premium Tax

Staff Recommendation

That the BC Government be requested to redirect the 4% Insurance Premium Tax, less the costs directly incurred by the office of the Fire Commissioner, to the City of Richmond, to offset the costs of providing fire services; and

That a copy of the staff report be forwarded to the Lower Mainland Municipal Association and the Union of British Columbia Municipalities, the Association of BC Fire Chiefs, GVRD Fire Chiefs, and the International Association of Fire Fighters, Local 1286, for consideration.


Jim Hancock
Fire Chief

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Staff Report

Executive Summary

There is a tax on insurance for any structure that may present a fire hazard in British Columbia. This tax is collected on all property insurance premiums at a rate of 4%. Revenue goes into the Consolidated Revenue Fund of the province, distribution of which is controlled by the Provincial Government and is allocated by the budget process.

The original intent of this tax was to offset the costs of administering the *Fire Marshal Act* of 1921, later the *Fire Services Act*. The Fire Marshal (now Fire Commissioner) has delegated or been forcibly excluded from many of the original roles of the office. At present, Provincial Government requires that municipalities and cities provide fire services, safety inspections, and fire investigations to their citizens. The Fire Commissioner administers these activities and provides related services such as appeals against investigation recommendations. Cities and municipalities do not receive any money from the Provincial Government for this mandate. The revenue from insurance tax is considerable, for example in 1999, \$1.46 billion was paid in insurance premiums to the insurance industry, which translates into \$58.4 million collected in tax revenue by the Provincial Government, and not redirected to the bodies who are required to provide the fire services it was intended to fund.

This tax is collected from a defined group of people for a defined purpose, so one would expect the two to be connected. The gain the insurance industry receives from fire protection in the form of decreased liability appears to be a "free ride", especially considering the increased cost of proactive fire protection in BC and shrinking municipal budgets. Therefore, it is reasonable to distribute this tax to the municipalities currently providing services under the *Fire Services Act*, based on value of insured property in each municipality's jurisdiction.

Analysis

This tax was first imposed in 1921 under the *Fire Marshal Act*¹ and covered all types (both property and automobile) of fire insurance. To summarize the relevant section, the tax was imposed to offset the costs (namely salaries and expenses) of administering the *Fire Marshal Act*. The tax was to be collected by the company issuing the policy, and paid to the Superintendent on or before March 1st each year. The Superintendent then paid the tax into the Provincial Treasury but was required to keep an account both revenues and disbursement to assist the Lieutenant Governor in Council in fixing the amount of the tax, which at that time was not to exceed one-third of one percent of all premiums or assessments. Salaries and expenses were then to be paid by the Minister of Finance out of the Consolidated Revenue Fund. The descendants of the Act (namely the *Fire Services Act*, in all its incarnations) kept the wording and intent of this tax essentially the same. The amount was to be fixed by the Lieutenant Governor as he saw fit to cover costs, and could be raised should collection be shown not to cover costs.

Since the original imposition of the legislation, the scope and role of the Fire Marshal's Office, now Fire Commissioner, has changed considerably. The Office of the Fire Marshal was created by the Office of the Superintendent of Insurance after the latter was made responsible for fire safety. The first Fire Marshal was the Superintendent of Insurance. This helps us understand why this tax was imposed under the same Act that created the Office of the Fire Marshal. His mandate was to make sure fire safety was incorporated into the design of new buildings by providing consultation to building contractors. Later, the Building Code came into effect, and in the 1940s and 1950s the role shifted to that of training of fire personnel throughout the province. Four pumper trucks visited fire departments of different municipalities and provided standardized training on-site.

In 1978, a report by Hugh Keenlyside recommended the creation of a Fire Commission, similar to the Police Commission, with a Fire Commissioner reporting to them. The Fire Commission was never created, but the Fire Marshal was renamed the Fire Commissioner. He was still responsible for training at this time. In 1979, the Fire Academy was created, which administers standardized training to this day, but was still part of the Fire Commissioner's budget. In 1998, the link between the Fire Commissioner and the Fire Academy was severed. The Fire Academy was working under contract to the Ministry of Municipal Affairs, but at the time of separation, the budget amount being directed to the Fire Academy through the Fire Commissioner was removed from the Fire Commissioner's budget, but never redirected to the Fire Academy. Therefore, the Fire Academy was forced to take an entrepreneurial stance and market to private clients such as BC Rail, who provide all but 20% of their administrative budget at present.

The Canadian Constitution delegates responsibility for all fire-related services to the Provinces, separated into suppression (under Municipal control) and prevention (under Provincial control.) The Fire Commissioner duties are enforcing the Building Code; administering appeals against fire investigation recommendations; liaising with related government ministries; establishing training standards; representing BC fire concerns on Provincial, National, and International levels; regular building inspections; and fire investigations. The last two functions are delegated to the Fire Commissioner's assistants, which includes all municipal fire chiefs. The substantial budget cut the Fire Commissioner endured in 1998 has been followed by further cuts each year.

However, it should be noted that funding has never been decided by the Act, but rather by budget allocation. Sections 48, 49, 50, and 51 of the *Fire Services Act*ⁱⁱ did not change substantially until July 23, 1982, under the *Fire Services Amendment Act, 1982*ⁱⁱⁱ. This document completely severs any link between the collection of the tax and disbursement to the Fire Commissioner. It also deletes tax on automobile fire insurance, and imposes the tax on the entire premium or assessment for the property, not just the fire insurance portion. The section allowing for an increase in the tax, should the costs of administering the *Fire Services Act* exceed the tax collected, has been deleted. The act puts no restriction at all on the amount of the tax. On January 1, 2000, all reference to a tax on insurance premiums was deleted from the *Fire Services Act*, and collection under the *Insurance Premium Tax Act* was increased proportionately. This tax currently stands at 4%.

The second reading of the *Fire Services Amendment Act* occurred July 14, 1982, moved by the Hon. Mr. Williams. In presenting the bill, his main points are:

1. that it is extremely difficult to determine the portion of the property insurance specific to fire coverage; so the tax will now be assessed on the entire insurance premium;
2. once the new reporting procedures have been set into action by this legislation, the rate can be adjusted to reflect the true cost of fire protection;
3. there is a direct connection between the collection of the tax and its use to support the Fire Commissioner's Office.

These points show that the purpose of the amendment was not to divorce the tax from its originally intended use, but rather to ease its collection.

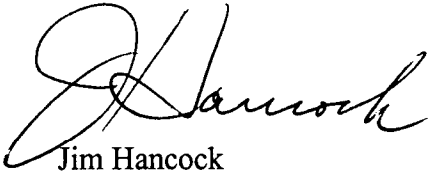
It seems clear from the original imposition of the tax that it was collected solely to pay for expenses of administering the *Fire Marshal Act*, later *Fire Services Act*. The fact that collection and disbursement of the tax was delegated to the Province using their vehicles for doing so (the Superintendent and the Consolidated Revenue Fund) seems to be the point that has caused confusion.

Financial Impact

N/A

Conclusion

It is apparent that the tax was originally intended to fund fire services. Therefore, insurance tax should in its entirety be directed to municipalities and cities that provide fire protection, less costs incurred by the Fire Commissioner, and not be subject to the normal budget allocation.

A handwritten signature in black ink, appearing to read "J. Hancock". The signature is fluid and cursive, with a large initial "J" and "H".

Jim Hancock
Fire Chief

JDH:dm

ⁱ *Fire Marshal Act 1921*

Section 32

1. For the purpose of defraying the expenses of administration under this Act, including the salaries of the Fire Marshal and his staff, every company (as defined by the "British Columbia Fire Insurance Act") transacting the business of fire insurance in the Province shall contribute each year a sum to be fixed by the Lieutenant Governor in Council according to such rate as in his opinion will be sufficient to meet the actual expenses of administration under this Act, but not exceeding in any year one-third of one per cent of all premiums or assessments (less return premiums or assessments and reinsurance premiums) paid or payable to such company on risks within the Province, and calculated on the business of the preceding calendar year as reported to the Superintendent, and such contribution shall be in addition to any other fee or tax payable by the company under any other Act: Provided that where the company is not licensed under the "British Columbia Fire Insurance Act" the contribution prescribed by this section shall be made by each insured paying a sum fixed as aforesaid, calculated according to the premium or assessment paid by him to the company during the preceding calendar year.
2. Every company and insured shall, on or before the first day of March in each year, pay to the Superintendent the amount so due from it or him, and the provisions of the "Taxation Act," or, in the absence of appropriate provisions, such provisions as may be adopted by the regulations for the purpose of enforcing payment of any such amount, shall apply in each case.
3. The Superintendent shall pay into the Provincial Treasury all Money received by him under this Act, and shall keep a separate account showing the moneys so received and the moneys expended in administration under this Act, in such a manner as may be required.
4. The salaries of the Fire Marshal and his staff and all expenses of administration under this Act shall, in the absence of a special vote of the Legislature available therefore, be paid by the Minister of Finance out of the Consolidated Revenue Fund.

ⁱⁱ *Fire Services Act 1979*

Section 48

1. To defray administration expenses under this Act, including the salaries of the fire commissioner and his staff, each insurance company transacting fire or automobile insurance business in the Province and each person whose property in the Province is insured for a fire hazard with an insurance company not licensed under the *Insurance Act*, shall contribute each year, in addition to all other fees or taxes payable under any other Act, a sum to be fixed by the Lieutenant Governor in Council according to a rate he believes will be sufficient with the money available under section 52 to meet actual administration expenses.
2. The sum fixed for an insurance company shall not exceed in any year 1% of the aggregate of the premiums or assessments, or their portions, paid or payable to the company for a fire hazard on property in the Province, less return premiums, assessments and reinsurance premiums, calculated on the business of the preceding calendar year reported to the superintendent.
3. The sum fixed for a person whose property is insured with an unlicensed company shall not exceed in any year 1% of each premium or assessment paid or payable by him, or premium note given or mutual or other liability assumed by him for a fire hazard under each insurance contract with an unlicensed company during the current calendar year, less return premiums, assessments and other similar rebates, as shown by his returns to the superintendent.

Section 49

Each insurance company shall pay to the Commissioner of Income Tax at Victoria the contribution due from it at the same time and manner as the tax under the *Insurance Premium Tax Act*. Each insured person shall pay to the superintendent his contribution in the same manner and time as the tax imposed on him by the *Insurance Act*.

Section 50

Salaries and expenses necessarily incurred in the administration of this Act shall, in the absence of a vote of the Legislature for that purpose, be paid out of the consolidated revenue fund. If the money collected under this Act is in any year less than the salaries and expenses, the Lieutenant Governor in Council may fix a further sum, subject to the limitation in section 48, to be contributed by the persons and in the manner set out in that section, to meet the deficiency.

Section 51

1. The fire commissioner shall keep an account of the money expended in the administration of this Act, and shall furnish the Lieutenant Governor in Council with the information he may require to fix the rate of contribution under section 48 or 50.
2. The superintendent shall keep an account of the amounts received by him under section 49 or 50, and on request shall furnish the fire commissioner with a statement of them.

Section 52

All license and other fees, money and fines collected or recovered under this Act or regulations shall be accounted for as part of the consolidated revenue fund.

ⁱⁱⁱ *Fire Services Amendment Act, 1982*

Chapter 49

Her MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1. Sections 48 and 49 of the *Fire Services Act*, R.S.B.C. 1979 c.133, are repealed and the following substituted:

Imposition of tax

48. (1) In this section, 'commissioner' means commissioner as defined in the *Insurance Premium Tax Act*.
(2) An insurance company transacting the business of fire insurance in the Province shall pay to the commissioner a tax equal to the portion prescribed by the Lieutenant Governor in Council of the aggregate of the premiums and assessments received or receivable by the company in 1983 or any subsequent calendar year for policies insuring property situated in the Province, other than automobiles, after deducting the following:
 - (a) premiums or assessments on property reinsurance ceded to the company by other insurance companies licensed or authorized by permit under the *Insurance Act* to transact business in the Province;
 - (b) property insurance premiums or assessments returned;
 - (c) the cash value of dividends paid or credited to property insurance policy holders.(3) A person whose property is insured against a fire hazard with an insurance company that is not licensed under the *Insurance Act* shall pay to the superintendent a tax equal to the portion prescribed by the Lieutenant Governor in Council of the
 - (a) premium or assessment paid or payable,

(b) premium note given, or
(c) mutual or other liability assumed
by the person for property insurance under each insurance contract with an unlicensed insurance company in 1983 or any subsequent calendar year.

Application of *Insurance Premium Tax Act* and *Insurance Act*

49. (1) Subject to this section, the *Insurance Premium Tax Act* applies in respect of the tax payable under section 48
(2) Commencing on January 1, 1983, section 4.1 of the *Insurance Premium Tax Act* applies to an insurance company whose tax payable, under section 48 of this Act, in the preceding calendar year exceeded \$25,000
(3) Part 9 of the *Insurance Act* applies in respect of the tax payable under section 48 (3).
2. Section 50 is repealed.
3. Section 51 is amended
- (a) in subsection (1) by striking out “of contribution under section 48 or 50” and substituting “of tax under section 48”, and
- (b) in subsection (2) by striking out “section 49 or 50” and substituting “section 48”