

Background

Proposed amendments to the Municipal Government Act (MGA) were released on May 31, 2016 in Bill 21, the Modernized Municipal Government Act.

What We Heard - Proposed 2016 Amendments to the MGA

July 29, 2016

AUMA immediately provided members with an impact assessment to support their engagement at the public consultation meetings hosted by Municipal Affairs in June and July. AUMA used these meetings as an opportunity to pose questions to Municipal Affairs about the rationale for these amendments and to press for a definitive response on why other requested amendments were not made. In many cases, Municipal Affairs provided a response that was not clear or did not address our specific concerns. As well, Municipal Affairs indicated that some matters have not yet been resolved as they have yet to be set out in a regulation.

Municipal Affairs set a deadline of July 29 for municipal associations and stakeholder organizations to provide their responses to the proposed amendments. AUMA distributed a survey to its members in July 2016. This document summarizes the results of the AUMA survey that was utilized to inform AUMA's submission to the province on MGA amendments.

Survey Results

AUMA received 62 responses to the survey on the proposed amendments to the Municipal Government Act. The majority of responses were received from towns (51 per cent) followed by villages (34 per cent), cities (7 per cent), and summer villages (5 per cent). One response was received from a specialized municipality. The large majority of respondents represented municipalities with a population under 3,500 (66 per cent), followed by those under 10,000 (20 per cent), under 70,000 (13 per cent), and over 70,000 (2 per cent).

Strong or moderately strong preferences in the member survey, aligning with AUMA's analysis can be found on the following key items:

- Mandatory provincial consultation with municipalities on issues that impact them, with overwhelming support for a minimum notice period when making changes;
- Mandatory offering and taking of training, including the requirement for some pre-training prior to running for office;
- Concerns about the Ombudsman as another layer of provincial oversight, additional costs for municipalities and taxpayers arising from this new role, and challenges of managing frivolous complaints;
- Requirement for Intermunicipal Collaborative Frameworks (ICFs) to include both intermunicipal services and infrastructure; and
- Exclusion of some specific property types from 5:1 tax rate ratio, with over 60 per cent supporting the exclusion of brownfields from being restricted by this ratio.

Additional key findings from the survey include:

- More than 60 per cent indicated that they would prefer to build regional ICFs rather than have individual ICFs with each adjacent municipality. However, the requirement to explore a regional ICF only had moderate support.

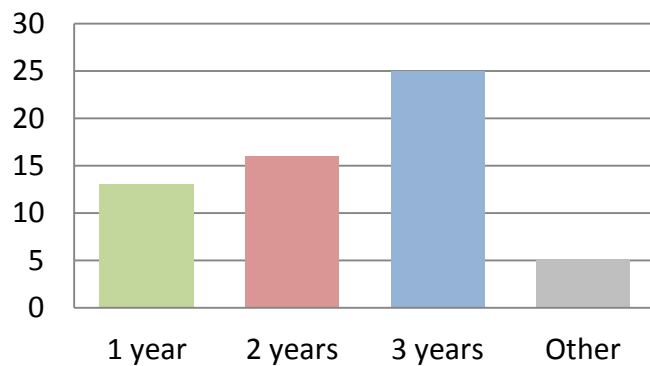
- Roughly half of respondents indicated that they were either unable or unsure whether they would be able to accommodate the creation/update of Municipal Development Plans (MDPs), Intermunicipal Development Plans and ICFs in the two to three year timeframe. AUMA is recommending extending the MDP completion date to five years to help municipalities meet this challenge.
- More than 70 per cent of respondents thought there should be a requirement for the development of joint use agreements between municipalities and school boards, which has informed AUMA's MGA submission.
- There is a very strong preference (nearly 70 per cent) for conventional interest arbitration when developing ICFs. This preference informed AUMA's submission.

Detailed results are included below.

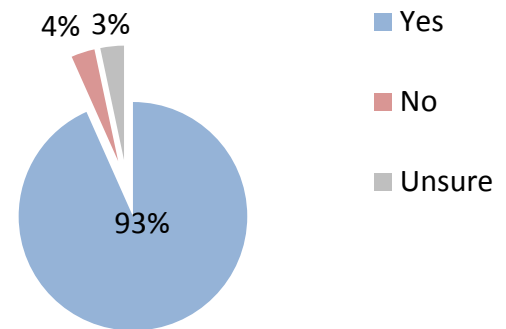
Municipal Funding

Strong concerns were voiced by members regarding the need for stable and predictable funding. These same concerns were reiterated in the survey, which suggested the need for a minimum notification period to municipalities when the province makes changes to municipal funding.

What should the minimum period be to give sufficient time for municipalities to adjust their operating and capital plans?



Should the MGA require a minimum notice period when the province makes changes to municipal funding?

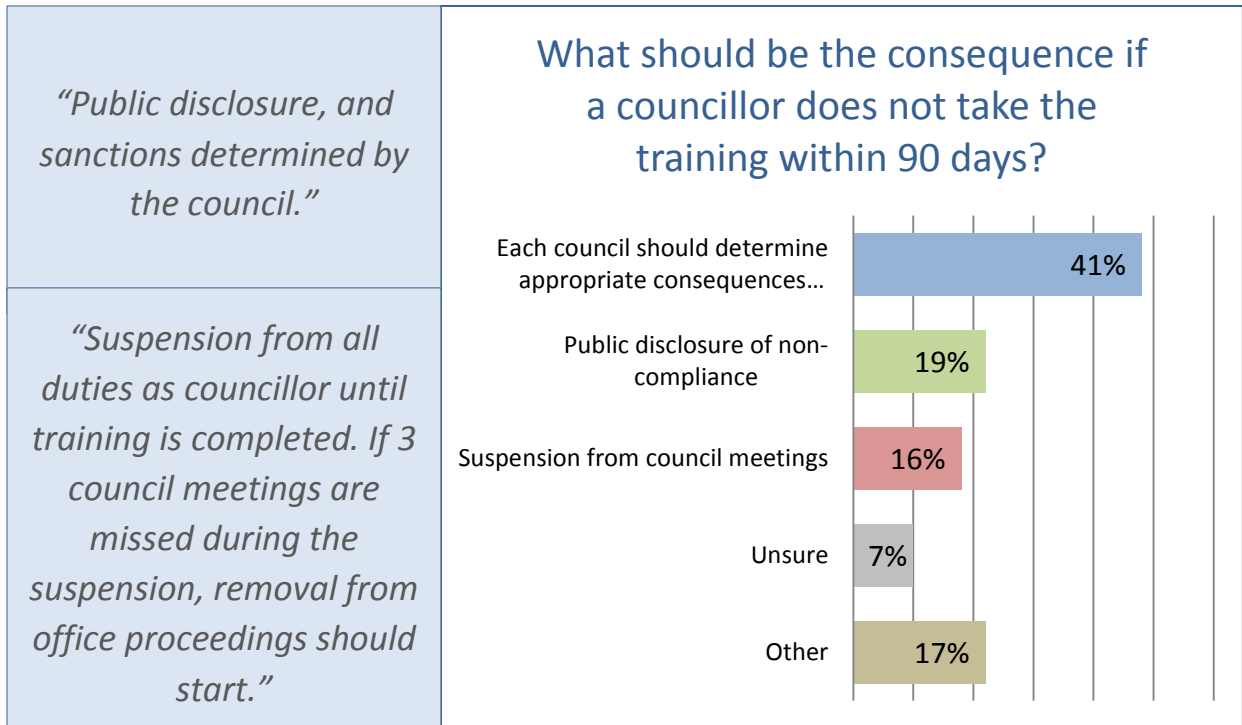
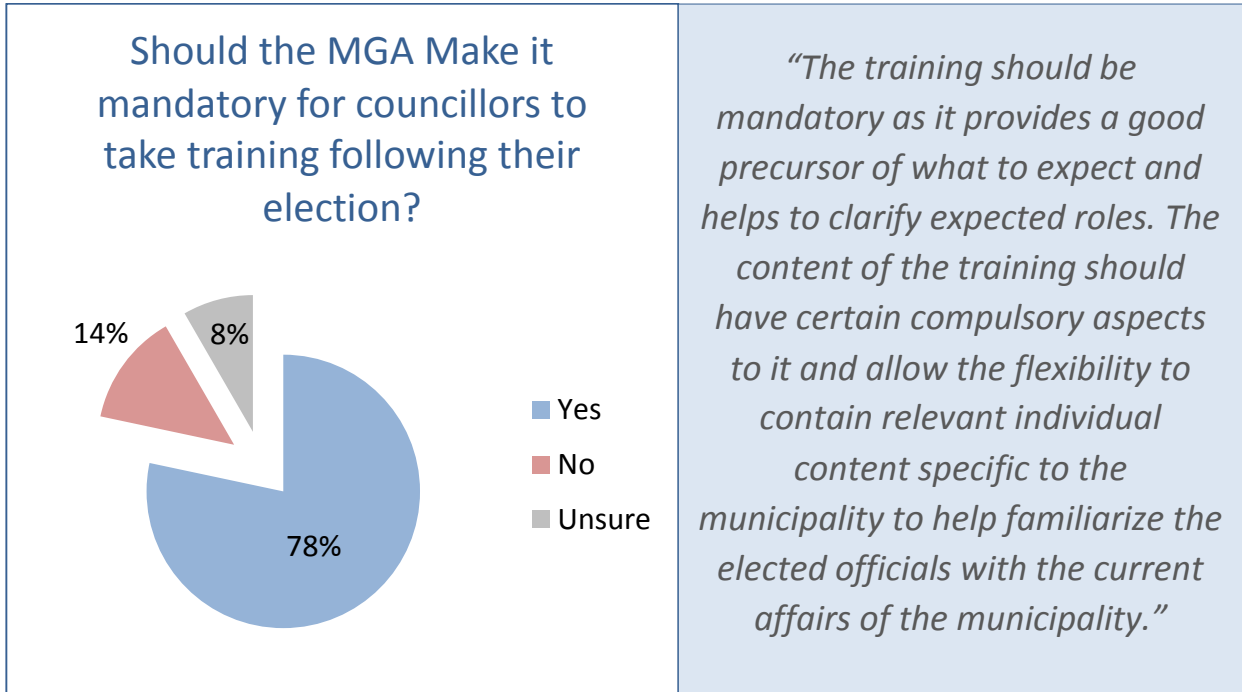


“The preamble would be the wrong location for this notice period, as the preamble section is not enforceable like the legislation itself.”

“If municipalities are required to have 3 year operating plans, then there should be 3 years notice to changes on funding. Similarly there should be 5 years notice for changes in capital funding.”

Elected Official Training

The 2016 proposed MGA amendments included that all municipalities must offer orientation training to each councillor within 90 days after an election or by-election. AUMA heard from our members that the MGA should go further and make it mandatory for all councillors to take the training and also require training prior to running for office.



What, if any, additional categories should be included in the scope of mandatory training?

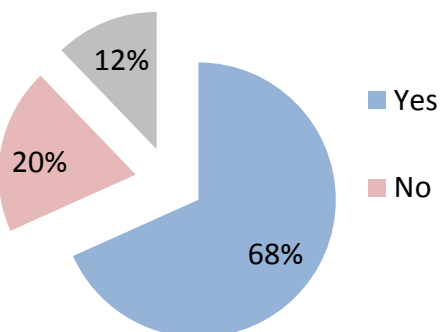
“If not included in the scope of roles and responsibilities, pecuniary interest needs to be included. In addition, it should ensure that training can cover topics over and above the ‘must’ requirements so that important local content can be added.”

“Ethics and municipal finance.”

“Robert’s Rule of Order and the role of local government – but only after being elected.”

“The need for council to realize that they MUST adhere to the MGA and that they are not managers of the municipality; they set the direction and the policies.”

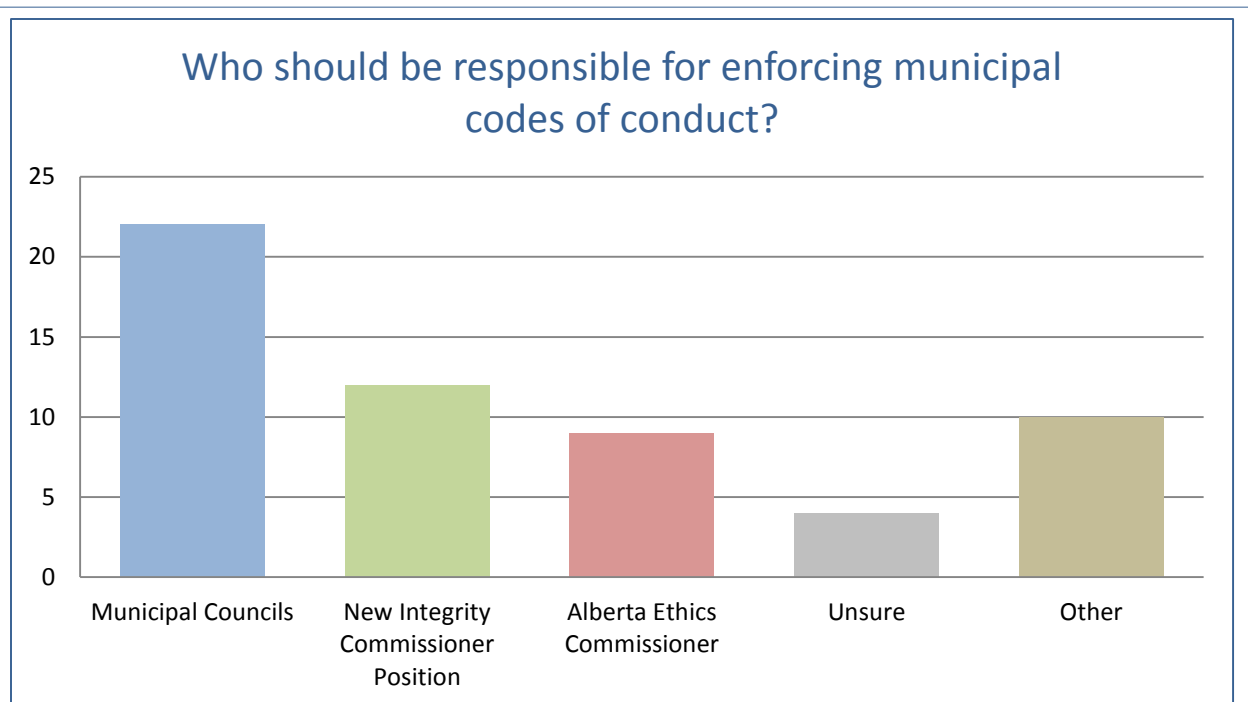
Should there also be a requirement for prospective councillors to attend an orientation before they run for office?



“Very often individuals run for office for the purpose of personal issues that they wish to resolve, or on the encouragement of friends to prevent another candidate from being elected. It is important that candidates be fully aware of the scope, limitations, obligations and commitment required in order to fulfil the responsibilities of the position.”

Codes of Conduct

In spring 2015, the MGA was amended to require municipalities to establish a code of conduct for councillors. Regulations will include matters that a code must address, the date by which it must be established, sanctions to be imposed for a breach, matters that a council must take into consideration in establishing a code, and implementation of a code. Survey respondents indicated a range of preferences for oversight.



“Sometimes the only way to get someone to understand consequences and to ensure they happen is by having an outsider to the community to enforce. This also helps with bias.”

“Integrity Commissioner to investigate, perhaps, but Council to receive the report and enforce.”

“It is obvious that municipal councils policing themselves does not work – evidence can be found around the province. This section definitely requires more discussion and better enforcement.”

“The enforcement of a code of conduct could be left to individual councils, with a commissioner available if required.”

Ombudsman

The proposed 2016 MGA amendments include expanding the mandate of the Alberta Ombudsman to investigate complaints relating to municipal processes. The scope of the Ombudsman's review is limited to ensuring that municipal actions are consistent with relevant legislation, bylaws, policies, and procedures. Respondents raised concerns about the Ombudsman as another layer of provincial oversight, additional costs for municipalities and taxpayers arising from this new role, and challenges of managing frivolous complaints.

What, if any, concerns do you have with the Ombudsman role for providing oversight on municipal matters?

"There will continue to be confusion between the roles of Ombudsman and the Minister of Municipal Affairs. Also, residents may see the Ombudsman as an appeal mechanism for municipal decisions they do not agree with rather than an oversight body. It will be critical to have the Ombudsman's roles and responsibilities clarified. If the intent is to create stronger oversight, the Minister should be removed from the equation and the Ombudsman should look after municipal inspections and inquiries."

"Do we really need another layer of oversight? Mechanisms are already in place to provide oversight on procedural items. This change to the MGA may require significant growth of the Ombudsman's office."

"The confusion of the public on what they can actually complain about is going to be a problem. People will be upset that they are not dealing with their perceived 'real issues'."

"We believe that there may be frivolous complaints which could be used by media to discredit council and/or administration."

"I truly see this as just another layer of bureaucracy as well as the potential for significant time delays and resource pressures for the CAO."

What, if any, additional matter should be included in the Ombudsman's role?

"None, as the role is not required. Procedural fairness is important, but this is already dealt with through other means whereas other council decisions are dealt with by the electorate during municipal elections."

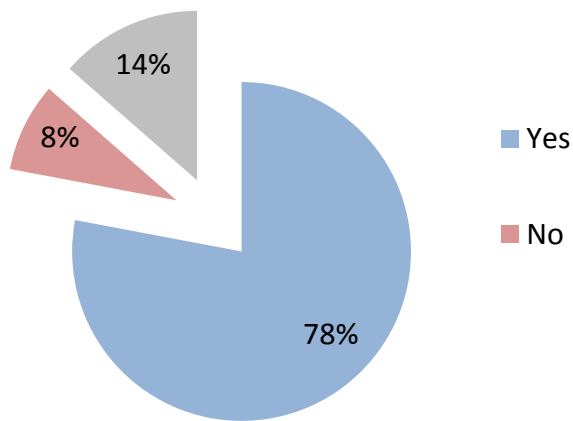
"Perhaps if there is an issue between the council and CAO, the Ombudsman could be brought in as an unbiased advisor."

Intermunicipal Collaboration Frameworks

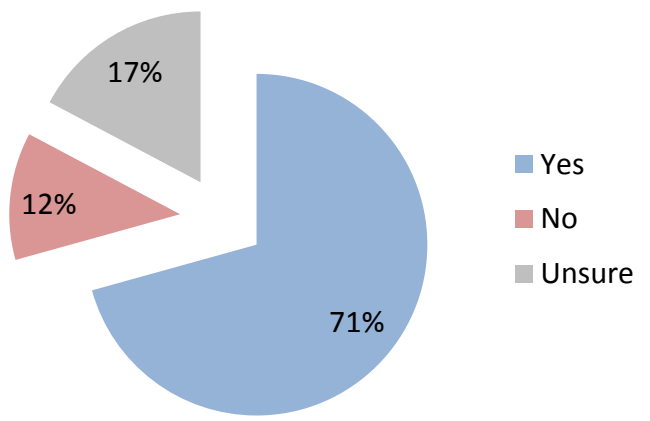
The proposed 2016 MGA amendments require municipalities with common boundaries to create an Intermunicipal Collaboration Framework (ICF) that outlines how services that are located in one municipality and used by residents of other municipalities will be funded.

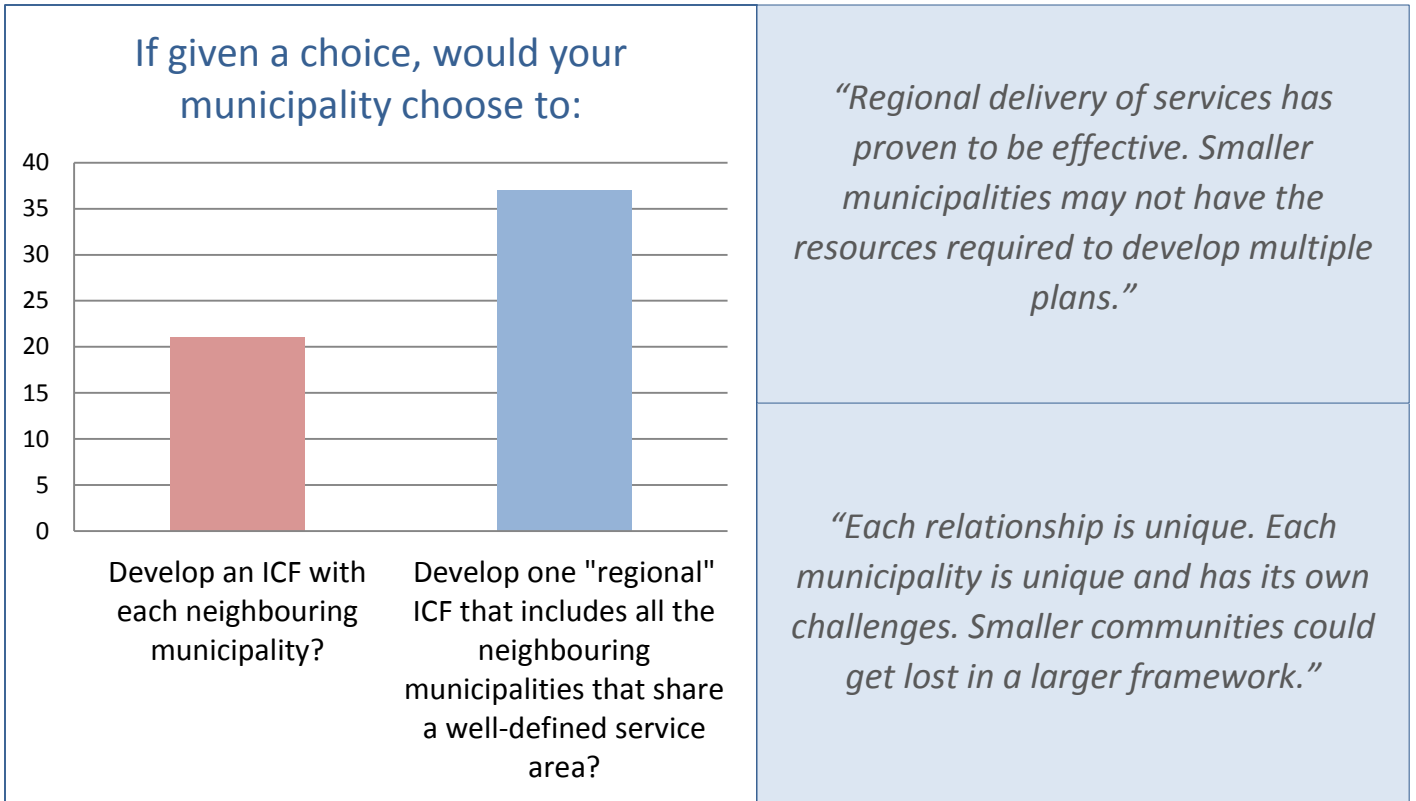
Respondents were clear in their support for ICFs including both services and infrastructure, and offered additional insight on the format and governance structure they would like to see in ICFs.

Should ICFs be required to include intermunicipal services AND infrastructure?



Do you agree that the scope of suggested services for the ICF is sufficient?

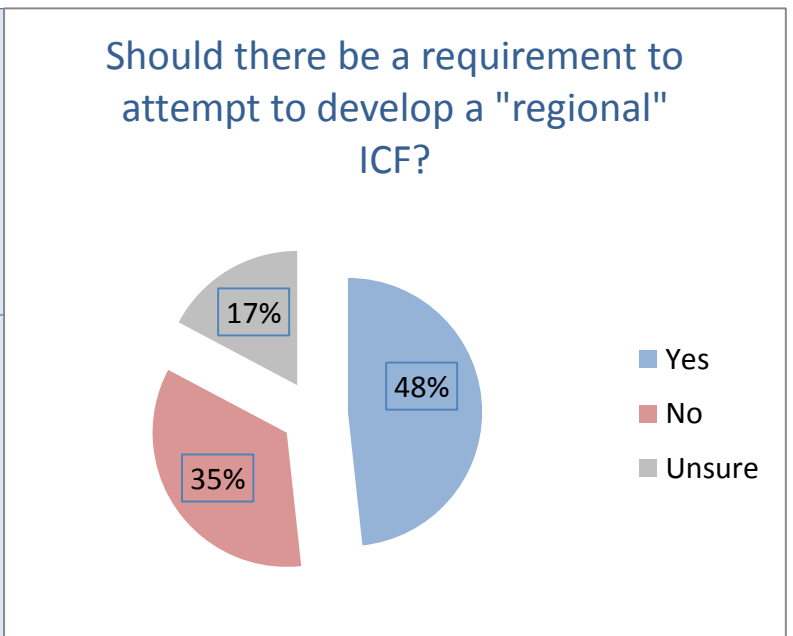




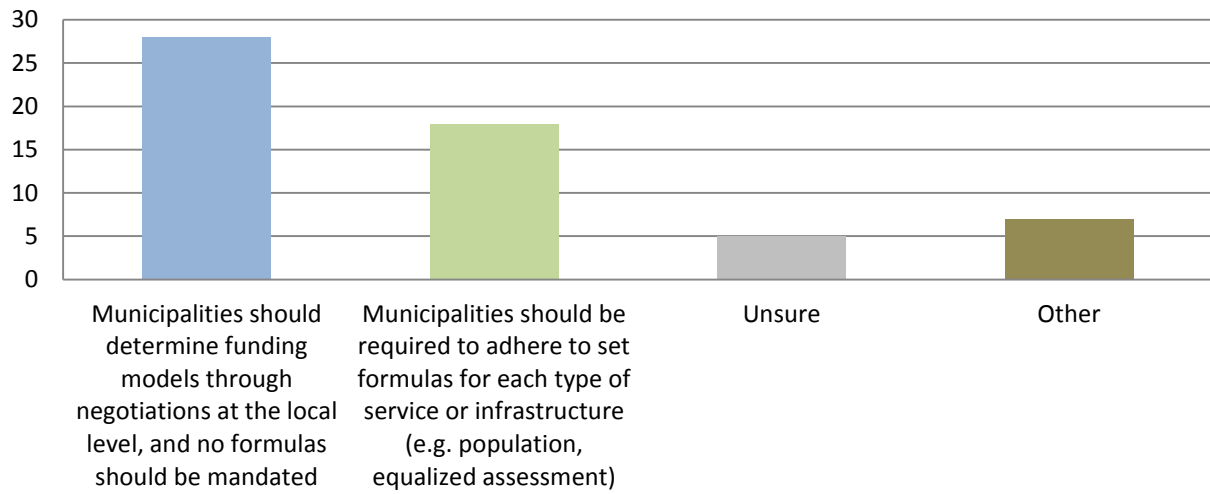
“Our region has been working well together and doing an ICF as a region may reinforce these partnerships, improve the probability of all the municipalities in the region remaining sustainable and ensure that services delivered over the region are done effectively and efficiently.”

“There are potential shared services areas where there is not a common boundary.”

“It is much easier to have two municipalities agree on an ICF than trying to satisfy many needs at the same table.”



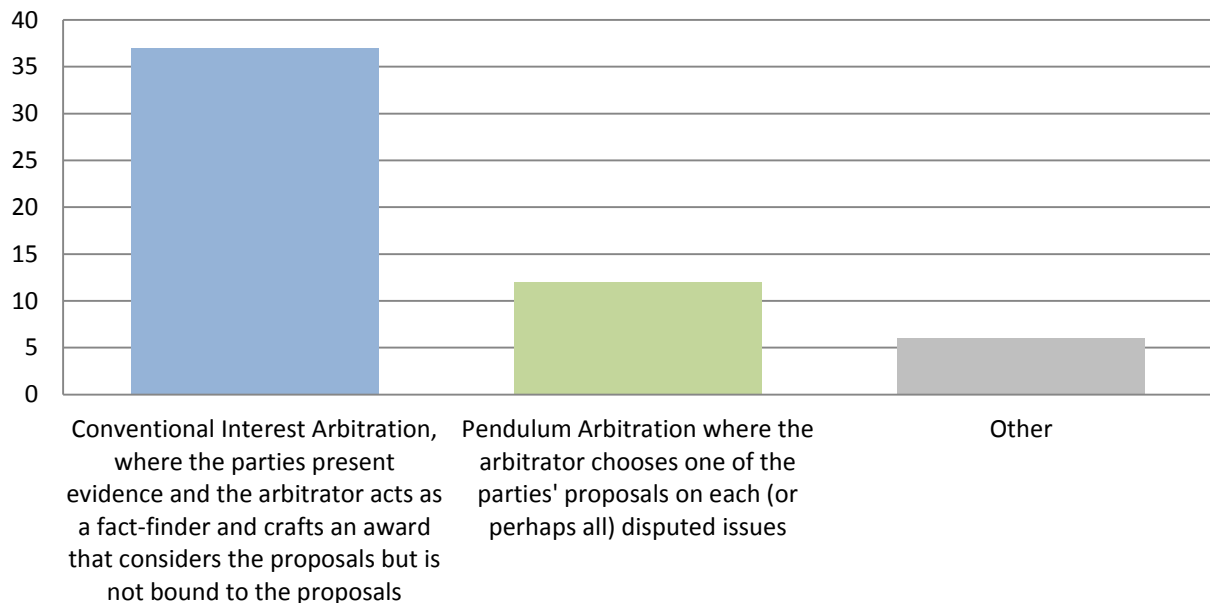
How should shared services and infrastructure be funded?

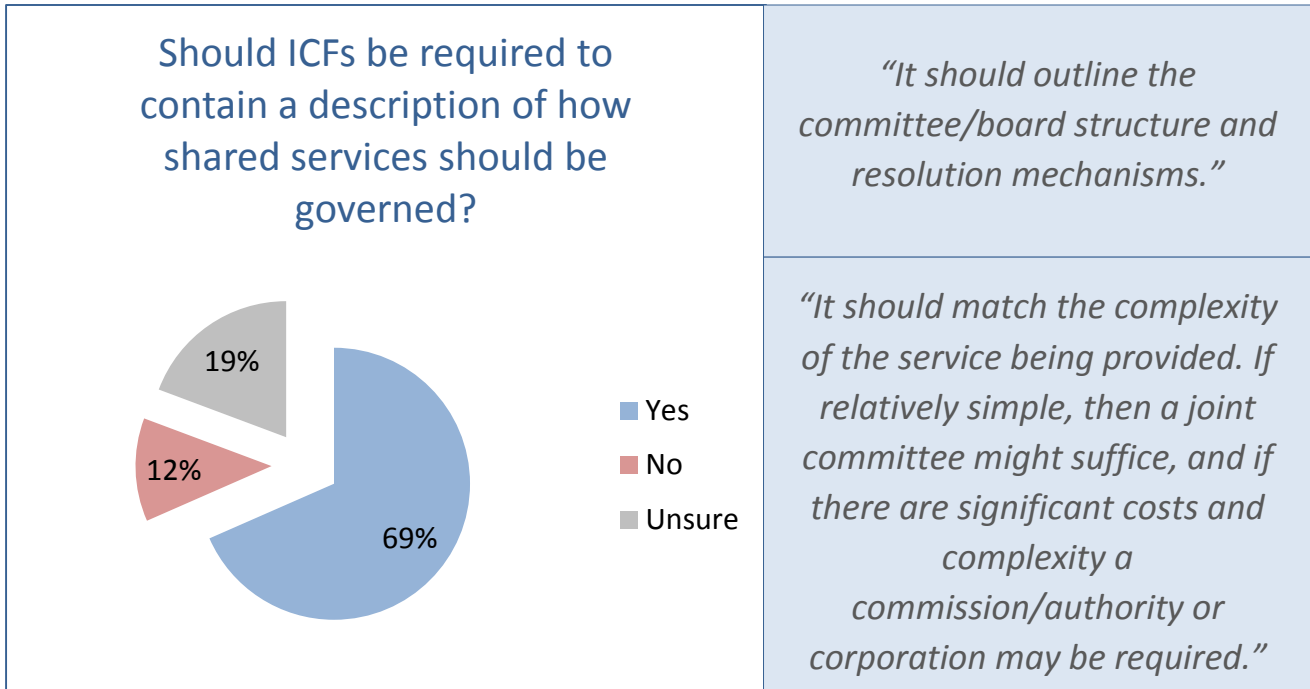


“Certainty is important to small urban municipalities.”

“A formula should be made available, but not made mandatory to follow as each region is different.”

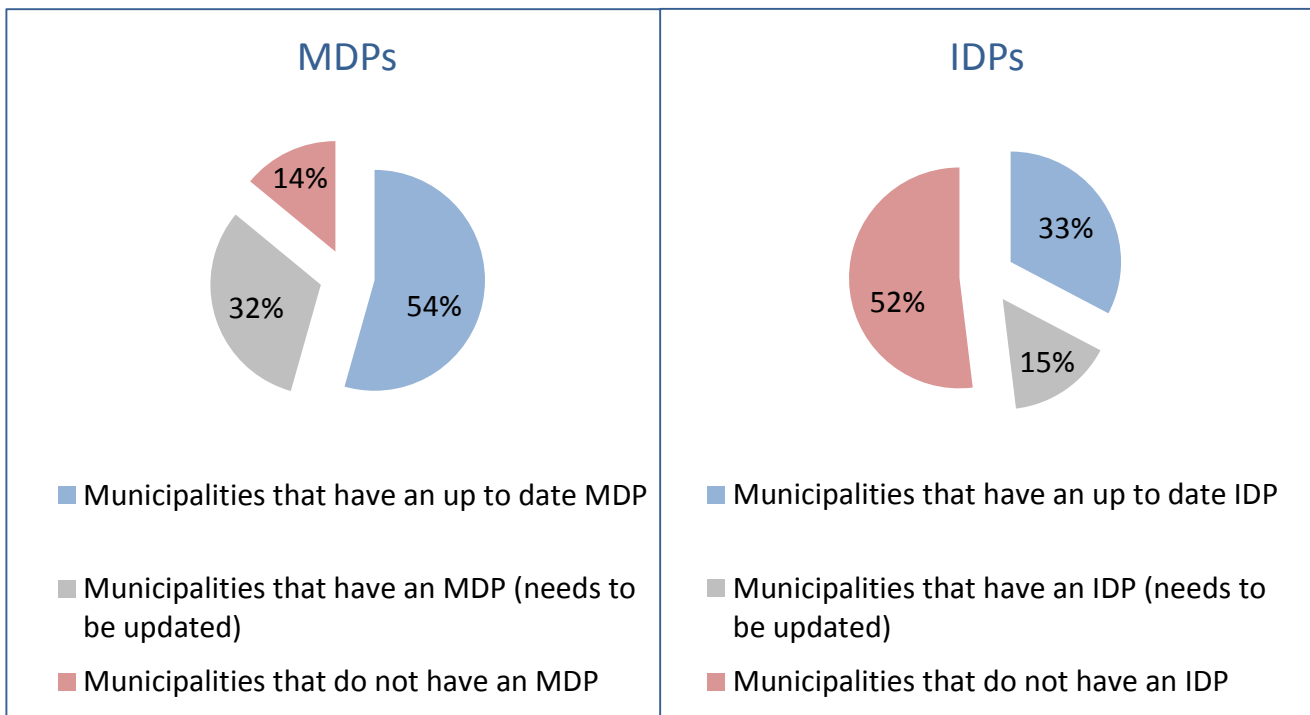
Which type of arbitration would work best for your municipality?



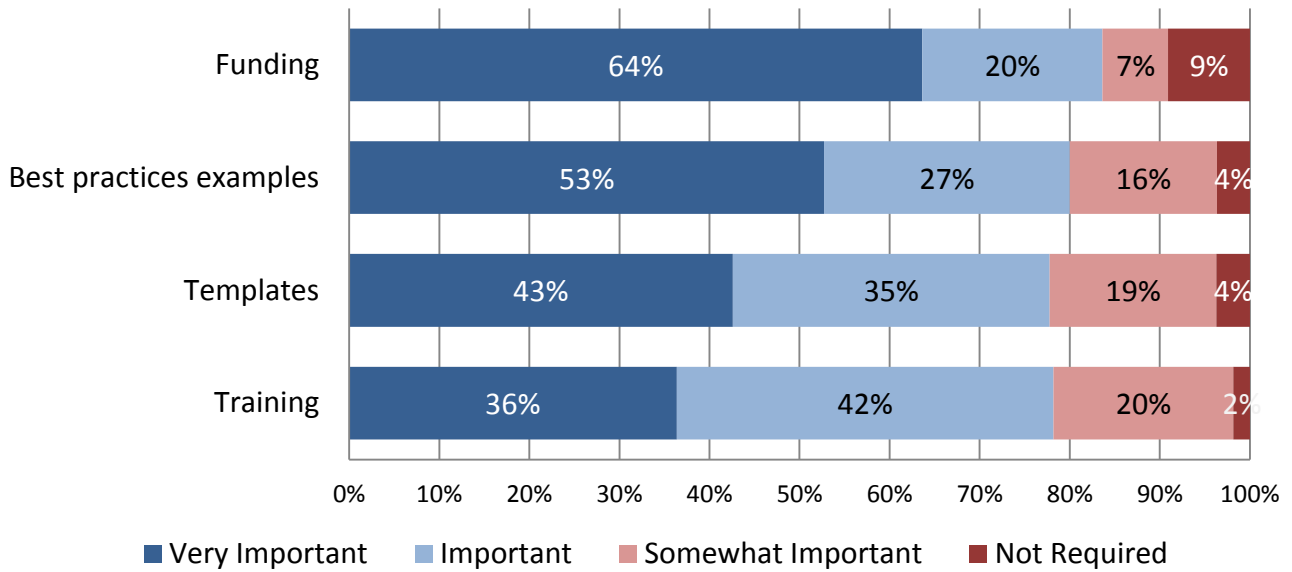


Statutory Plans

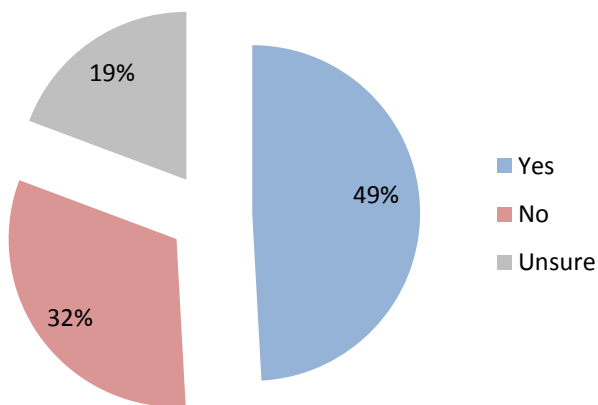
Another proposed MGA amendment is to require all municipalities, not only those with populations of more than 3,500, to adopt a municipal development plan (MDP) within three years. This is in addition to the requirement to have Intermunicipal Development Plans (IDP) for the Intermunicipal Collaboration Framework (ICF) within a similar time period. Many members do not have up to date statutory plans in place, and the resource strain of creating them is a major concern.



Rate the importance of the following supports for developing an MDP



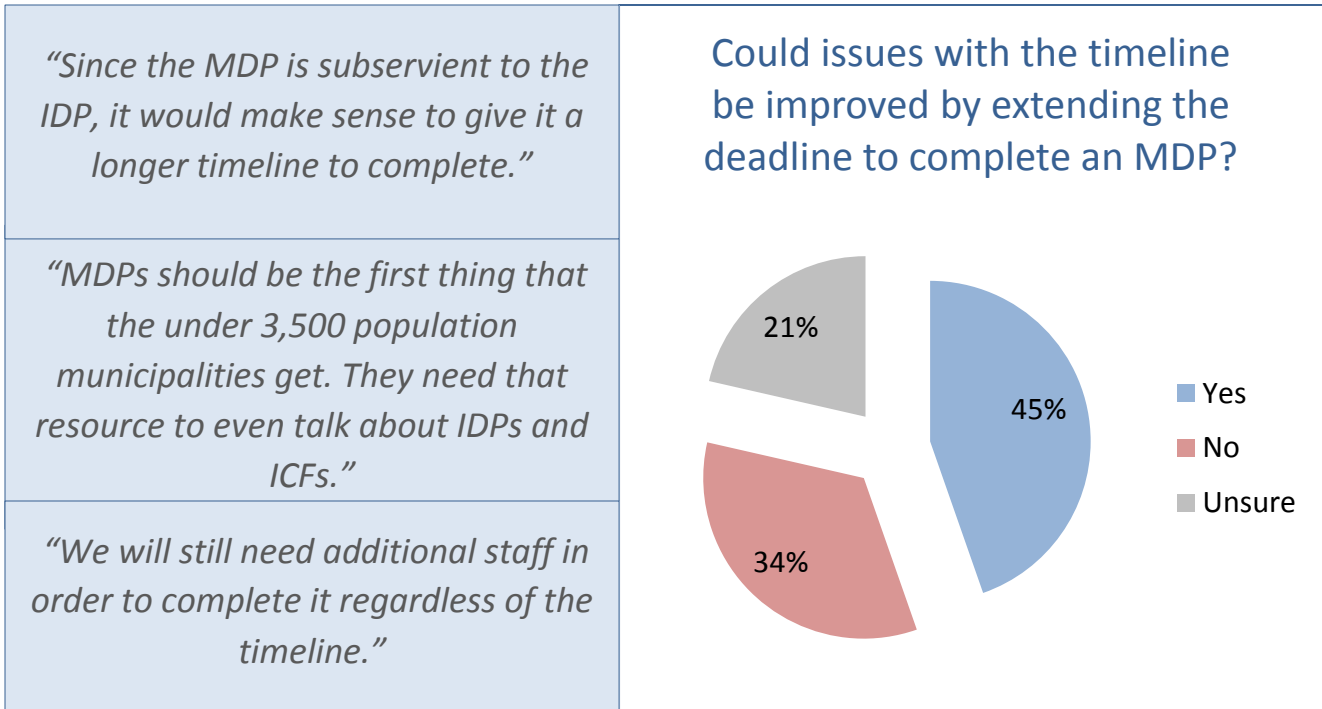
Could your municipality accommodate the creation/update of all three documents in the two to three year timeframe?



"We would likely need to hire additional staff and/or a contractor."

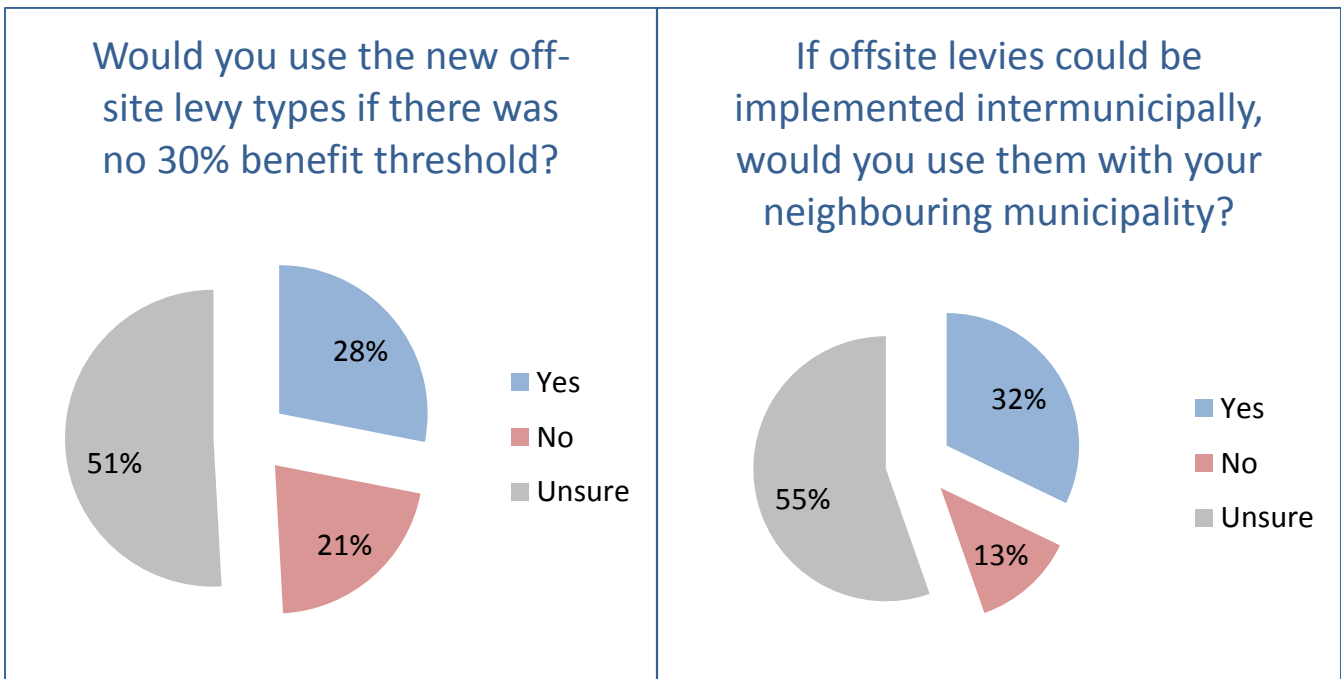
"There will not be enough specialists available in the process to assist in this endeavor within the timeframe."

"As a small village, unless funding is provided the current budgetary process would not accommodate any further expenditures."



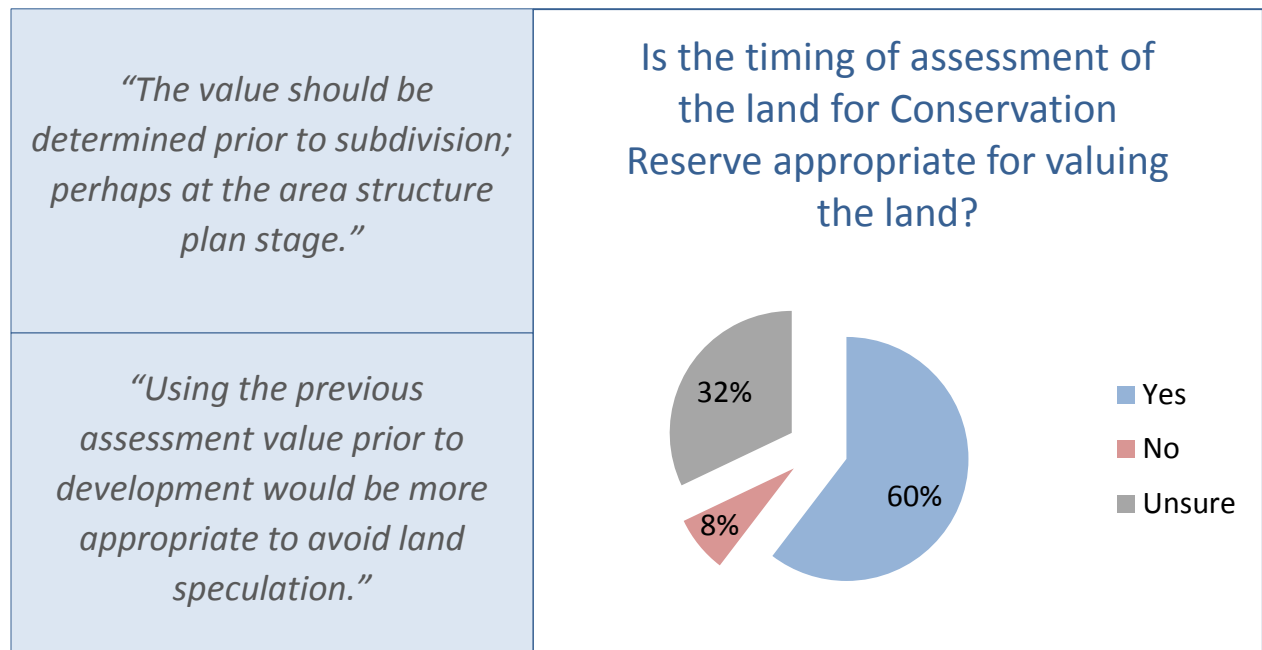
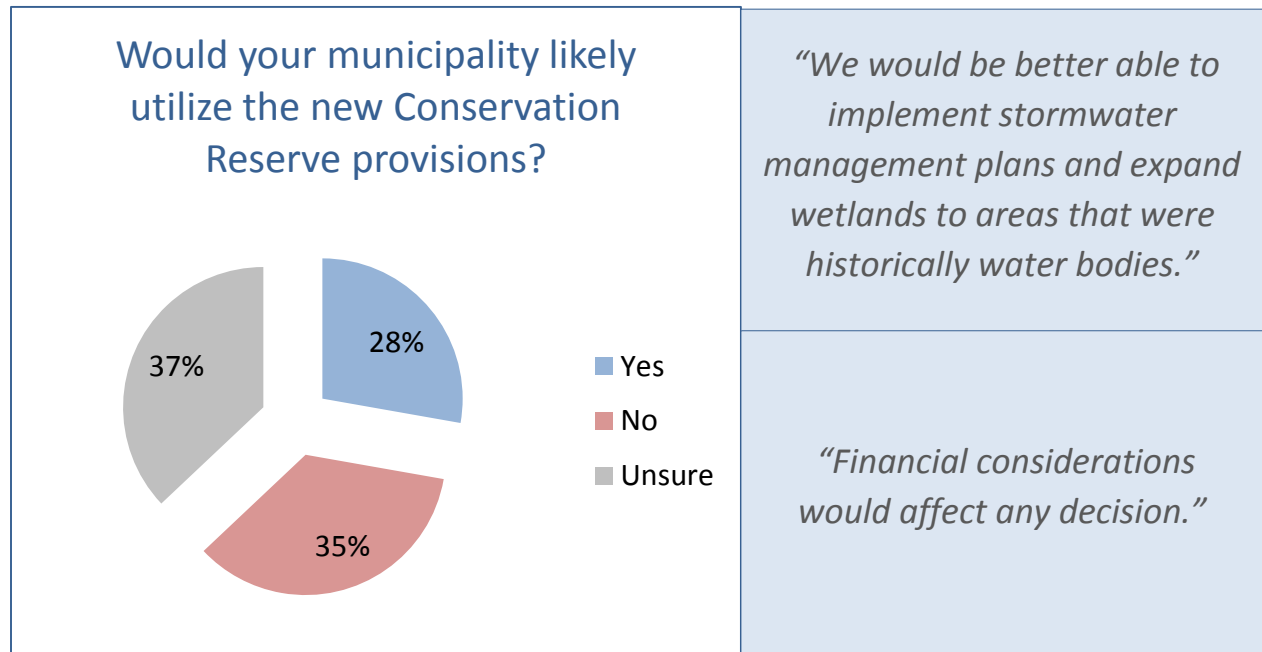
Offsite Levies

The proposed 2016 MGA amendments provide the option to add new off-site levies for new or expanded community recreation facilities, fire hall facilities, police station facilities, and libraries – provided that at least 30 per cent of the benefit of the facilities is anticipated for the future occupants of the new development on which the off-site levy is being imposed. Members are concerned that the new levy types will not be useful in their municipality; however some have identified potential opportunities for intermunicipal levies if enabled.



Conservation Reserves

A new type of reserve called “Conservation Reserve” (CR) is proposed under the MGA amendments. This means that at the time of subdivision approval, the subdivision authority will be authorized to require the owner of land to provide land to the municipality as conservation reserve in return for market value compensation. As a result, many municipalities are unsure if they will use this tool.



Municipal Reserves

The proposed MGA amendments do not provide for any changes to municipal reserve or school reserve (i.e. there were no changes from the existing amount of municipal reserve at 10 per cent for newly developed areas). Respondents identified a number of other uses suitable for municipal reserve land, and strongly support the mandatory creation of Joint Use Agreements with school boards.

What scope of uses should be allowed on Municipal Reserve land?

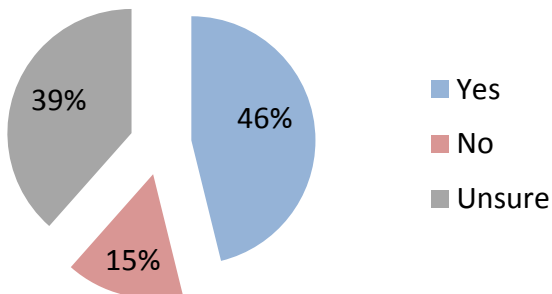
“Playgrounds, parks, and gardens.”

“For communities that will not see a school placed within their municipalities, they should be able to use the land for commercial business which would help to financially support the community.”

“Parks and recreation. School Reserves should be separate.”

“Municipalities should have the flexibility to decide for themselves.”

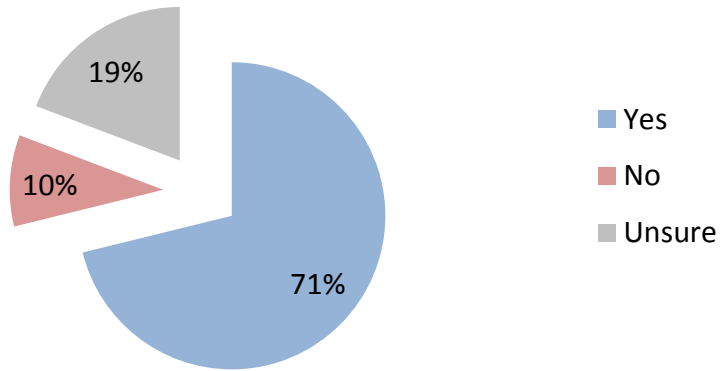
Should there be a limit in the amount of land used for school sites within the Municipal Reserve envelope?



“Schools should rethink footprints or the province should pay for additional land. School development should evolve with smart growth policies. It should be more cost effective to benefit all taxpayers.”

“Land for other uses such as green space, pathways, and parks needs to be protected.”

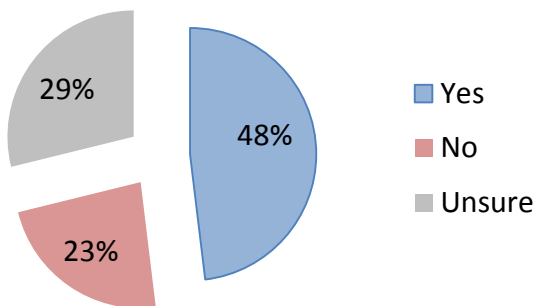
Should there be a requirement in legislation for the development of Joint Use Agreements between municipalities and school boards?



“It is important that the school and community work together to provide recreation opportunities and space to students and the community.”

“This would provide clarity, and I imagine it would make budgeting for school activities easier as well.”

Should the amount of municipal reserves be partially dependent on a municipality's density?

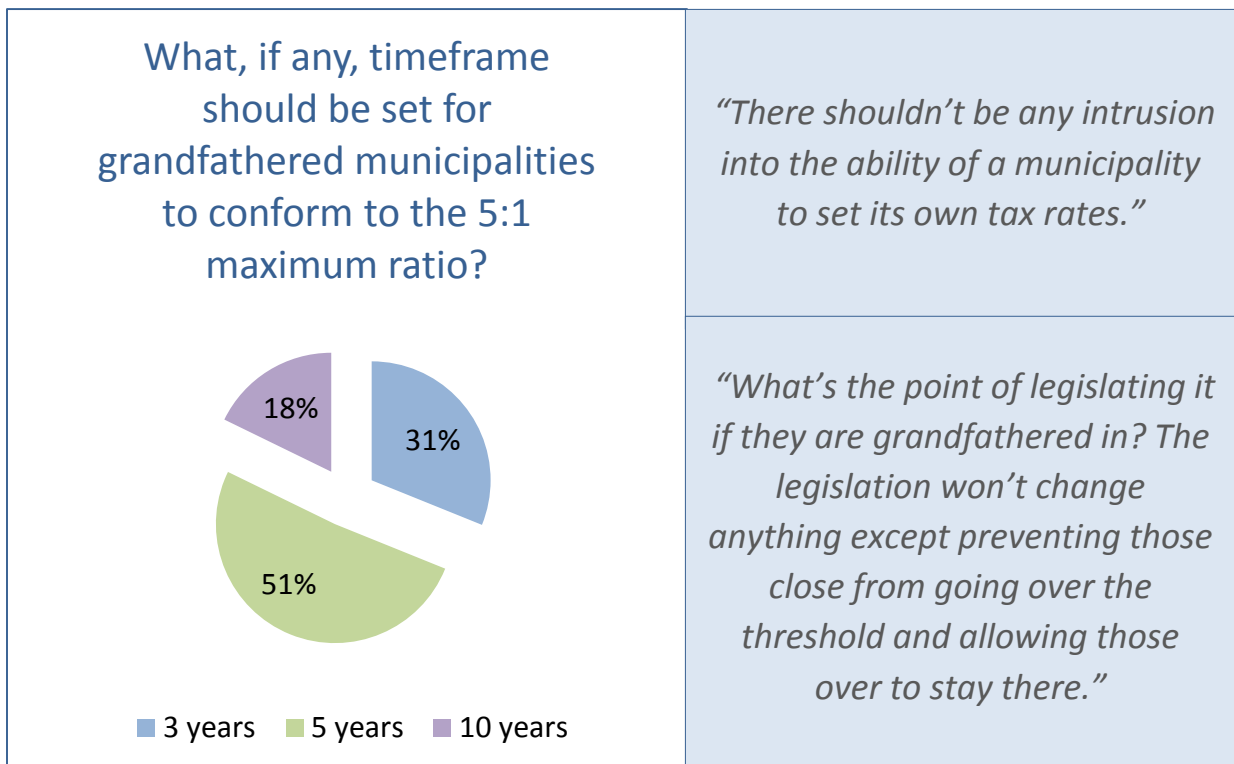
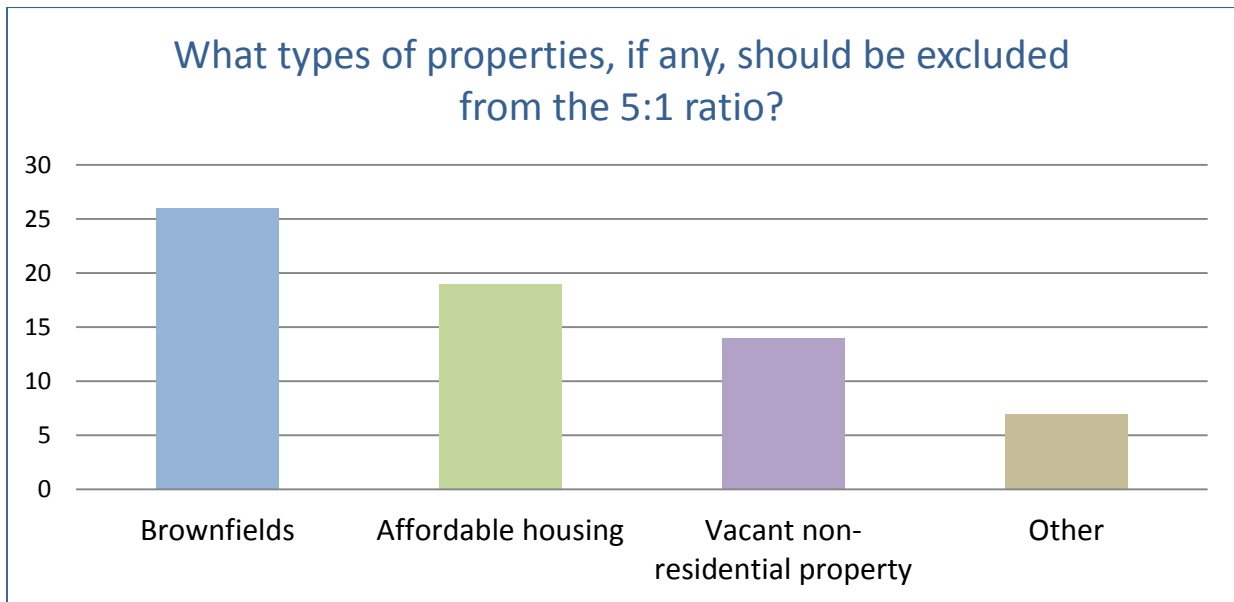


“If there is higher density, you need to offer adequate green space especially where people do not have their own backyards.”

“The greater the density, the greater the need is for space.”

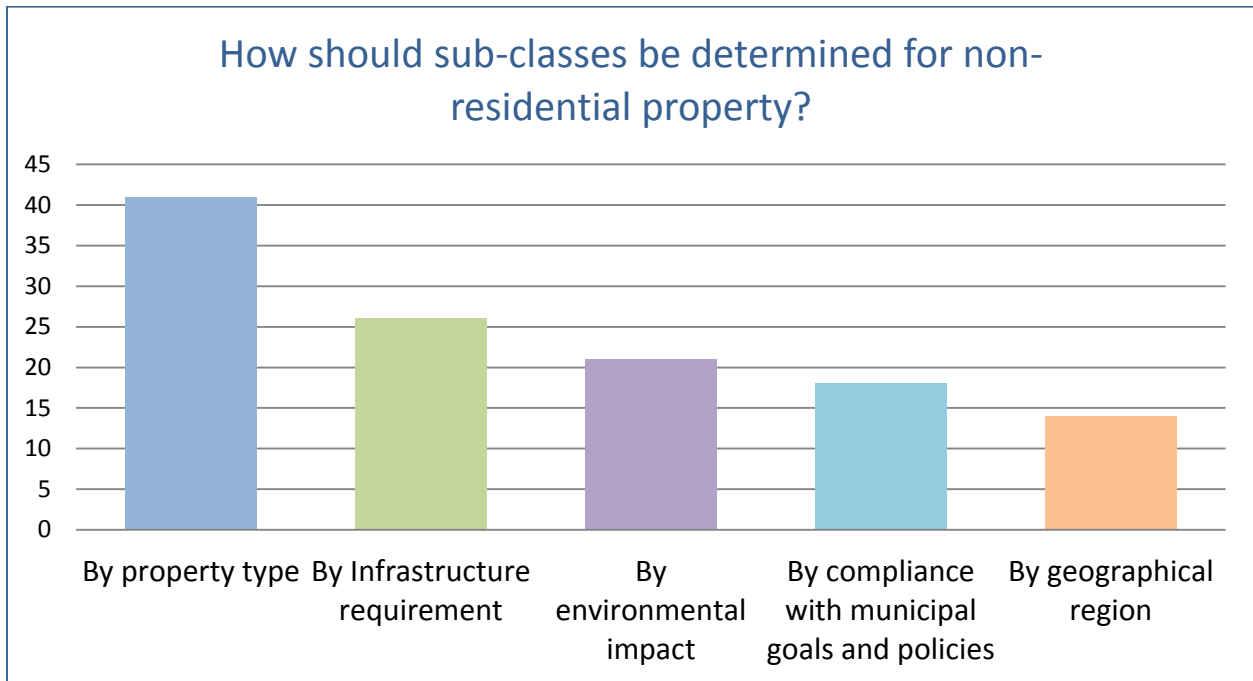
5:1 Ratio for Tax Rates

The proposed MGA amendments impose a maximum 5:1 tax rate ratio of non-residential tax rates to residential tax rates. There are currently 18 municipalities that exceed the 5:1 maximum ratio, most of which are rural municipalities or improvement districts. These municipalities will be grandfathered so they may continue to be non-conforming above the 5:1 ratio until they voluntarily lower their ratios. Respondents were concerned about this grandfathering clause, and identified a number of property types that municipalities should be able to exclude from the ratio limit.



Sub-Classes for Non-residential Tax Rates

The proposed MGA amendments provide for additional sub-classes for non-residential property so that municipalities can set tax rates for different types of property subject to the new maximum 5:1 ratio limit between non-residential and residential taxation rates. Respondents noted a number of methods that could be used to define sub-classes, with “by property type” and “by infrastructure requirements” being the most popular.



Property Assessment Appeals

The proposed amendments remove the “Leave to Appeal” step in the property assessment appeals process. Some respondents expressed concerns about the potential for additional hearings through the court process, increased costs for municipalities, and changes to the way the MGA is interpreted.

