

Appendix IV: Comparison of two potential structures

Pros	Joint municipal services corporation (JMSC)	Joint municipal service board (JMSB)
Establishment process	Can be created through section 203 of the <i>Municipal Act</i> .	Can be created through section 195 of the <i>Municipal Act</i> .
	Province may use regulation to streamline process (e.g., no business case requirement).	There is no legislative or regulatory requirement for a business case, it is best practice.
Corporate governance model	Recognized business model.	Widely used in the municipal sector for a variety of purposes.
	Flexible and expansive borrowing capabilities.	Could rely on a member municipality to borrow using the municipality's credit rating.
	Efficient corporate governance processes.	Efficient governance process is possible.
	Skills-based boards.	Skills-based JMSBs can be established.
	Nimble procedural processes.	Nimble procedural processes.
	Municipal shareholders can appoint directors.	Member municipalities would initially appoint board members and could then delegate the future appointment of board members to the JMSB.
	Municipal shareholders can ensure basic protection through shareholder direction.	The JMSB is a local board subject to the <i>Municipal Act</i> including the requirement for open meetings.
	Can emphasize transparency.	Open meetings are required.
	Boards of MSCs can be populated with industry experts and other required experts.	Boards of JMSBs can include industry experts and other required experts.

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Pros	Joint municipal services corporation (JMSC)	Joint municipal service board (JMSB)
Jointly owned entity	Economies of scale, efficiencies and economic power.	Economies of scale, efficiencies and economic power are possible.
	Properly drafted founding documents can mitigate cons/concerns.	Founding documents can mitigate cons/concerns.
Potential regulatory rate setting model	Setting rates by independent JMSC reduces political pressure on municipalities.	Setting rates by the JMSB could also reduce political pressure on municipalities.
Corporate borrowing powers	Financial assistance available from member municipalities.	Member municipalities provide financing under the <i>Municipal Act</i> .
	Can issue long-term debt in its own name and is not subject to financing restrictions contained in the <i>Municipal Act</i> .	Cannot issue long-term debt. Would need a member municipality willing to issue long-term debt on behalf of the JMSB.
	If MSC is properly structured, debt would not be included in the member municipalities' consolidated financial statements.	Debt would be included in the member municipalities' consolidated financial statements.
	If MSC is properly structured, member municipalities' annual repayment limits (ARLs) would not be adversely affected.	Member municipalities' ARLs would be impacted by debt issued by a member municipality on behalf of the JMSB.
Establishment process	Complex issues, costly and time-consuming process.	A complex issue that would require time and resources to establish.
	High degree of public and stakeholder engagement mandated.	High degree of public and stakeholder engagement possible but voluntary.
	Subject to compliance with several statutory and regulatory requirements.	Also subject to compliance with statutory and regulatory requirements.

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Pros	Joint municipal services corporation (JMSC)	Joint municipal service board (JMSB)
Corporate governance model	Directors have a fiduciary duty to the JMSC.	Directors have a fiduciary duty to the JMSB.
	Potential conflicts between interest of the JMSC and member municipalities.	Potential conflicts between interest of the JMSB and member municipalities.
	Progressively increasing difference between public policy focus of the member municipalities and the business orientation of the JMSC.	Public policy objectives would remain the focus.
	Potential jurisdictional battles and duplication between the member municipalities and the JMSC.	Less likelihood of jurisdictional conflicts and duplication.
	Progressive limitation and reduction of the member municipalities' control of the JMSC.	The JMSB is a local board of each member municipality and there is little likelihood of limitation or reduction of municipal control, although disputes could arise among the member municipalities.
	Debt borrowing in the capital markets is subject to securities legislation and higher financing costs.	Member municipalities are exempt from securities legislation and participation in a JMSB should not affect the cost of financing of member municipalities.
	Potential private sector involvement through purchase of shares in the future if there is a regulatory change.	No private ownership is possible as the assets remain in municipal hands.
	Federal insolvency legislation would apply in the event of an insolvency.	In the event of an insolvency, special provincial legislation would apply.

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Pros	Joint municipal services corporation (JMSC)	Joint municipal service board (JMSB)
Jointly owned entity	How to balance competing interests/objectives of member municipalities.	How to balance competing interests is also a challenge for a JMSB.
	Valuation principles — how are respective proportionate interests in JMSC’s assets fairly apportioned.	Member municipalities would retain ownership of assets, but there could be similar valuation issues in respect of each member municipalities’ assets.
	Each new member municipality dilutes the shareholding interests of existing member municipalities.	How to balance the interests of existing member municipalities would also be an issue for a JMSB. There are no shareholdings in a JMSB but the control and influence of existing member municipalities could be diluted.
	How to protect minority shareholders from majority shareholders.	Also potentially an issue for a JMSB. There are no shareholdings in a JMSB but a similar issue can arise in respect of the power of member municipalities to control or influence decisions of the JMSB.

Cons	Joint municipal services corporation (JMSC)	Joint municipal service board (JMSB)
	Splintering of share ownership increases the power of the JMSC and its board and can dilute the power of the member municipalities.	There are no shareholdings in a JMSB but a similar issue can arise in respect of the power of member municipalities to control or influence decisions of the JMSB.

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Cons	Joint municipal services corporation (JMSC)	Joint municipal service board (JMSB)
Potential regulatory rate setting model	How can a change in revenues from providing water and wastewater services be fair and appropriate and not worsen the financial situation of member municipalities.	Also potentially an issue for a JMSB.
	Public policy objectives of a third-party regulator and municipalities may be different.	Also potentially an issue for a JMSB.
	Councillors are still seen by the public as responsible for rates and service levels.	Also potentially an issue for a JMSB.
Corporate borrowing powers	Transfer of water and wastewater assets of member municipalities to the JMSC could have an adverse impact on municipal credit ratings.	No transfer of assets occurs. Member municipalities retain their assets and there should be no adverse impact on municipal credit ratings.
	Cost of borrowing likely higher than that of member municipalities.	Member municipalities can borrow through the member municipality that has the highest credit rating/ lowest cost of borrowing but the cost of borrowing could be adversely affected by the inclusion of member municipalities with no credit ratings and/or high borrowing costs.
	Not maintaining Government Business Enterprise status would jeopardize pros.	Not applicable, as the JMSB is a local board of each member municipality.