

Local Government Elections Task Force Backgrounder on Local Government Elections

January 2010



Local Government Elections Backgrounder

Background

Local government elections are held every 3 years and are conducted by local governments under the legislative framework of the *Local Government Act* and under parallel *Vancouver Charter* provisions for the City of Vancouver. These provisions apply to local government elections (both general elections and by-elections) and “other voting” (i.e., referendum voting – both required referendums and referendums seeking public opinion).

The local government election provisions govern elections for municipal elected office (mayor and councillors) and for electoral area directors on the regional district board. The *Vancouver Charter* provisions apply to the election of the mayor, councillors and the Vancouver parks board.¹

School board elections “piggy back” on the local government election process – meaning that their election processes rely on the *Local Government Act* election provisions and the vast majority of school board elections are conducted by municipalities and Regional Districts. The Islands Trust elections also rely on the *Local Government Act* provisions, as do the Cultus Lake Park Board elections and the elections of the 5 local community commissions.

All told over 1660 elected positions are filled under the election provisions, providing elected representation to over 250 government bodies. Thus, while the local government elections legislation is not “stand alone” legislation, there is effectively a single provincial process for all local government (and affiliated bodies) elections.

Currently the local government elections system is not directly connected to the provincial election system. Provincial elections are conducted under the *Election Act*. The *Referendum Act* governs provincial referendums and regulations under that Act currently apply significant provisions of the *Election Act* to referendum processes. Elections and referendums are conducted by Elections BC (EBC). EBC is an independent office of the Legislative Assembly and has a core staff of 41 which increases to 32,000 during an election. According to Elections BC staff, EBC has an annual operating (i.e., non event) budget of \$ 7.7 million² with an additional \$38 million for the 2009 election (and counting as the costs for the election are still being incurred).³ Currently, 85 elected positions are filled under the Provincial *Election Act*.

¹ The City of Vancouver has a very strong tradition of having “separate” legislation from the rest of the local government system. Up until 1993, *Vancouver Charter* amendments were done by private member’s bill. The 1993 *Local Elections Reform Act* was the first time that a government bill amended the *Vancouver Charter* and introduced parallel provisions to that of the *Local Government Act*.

² EBC annual budget has been frozen at this level (\$7.7million since 2008/9 fiscal) and is forecasted to remain frozen at this level through to 2011/12)

³ The cost for the election does not include the costs for the boundary redistribution or enumeration.

What the legislation does

Given the importance of fairness, openness and accessibility to the election process, elections legislation is generally very prescriptive – and the local government election provisions are no exception. In addition to the fundamentals of the election process (i.e., who can vote, who can run, etc), the election provisions govern:

- the administrative aspects of the election process (e.g., the arrangements for voting including the appointment of election officials, notices, ballots, ballot boxes, etc);
- the nomination process and rules for candidates;
- the conduct of the voting (e.g., voting opportunities, how to get and mark a ballot; who can be present at voting opportunities, etc);
- the conduct of the count (e.g., when and where ballots are counted, how they are counted, process for rejecting and challenging ballots, etc);
- campaign financing rules, which include the disclosure of campaign contributions and expenses; and
- election offences and invalid elections procedures.

Consistency with federal and provincial election rules was, and is, a key principle underpinning the legislation. However, given that the legislative framework applies to all manner of communities - from small rural communities to large urban centres - the legislation sets out a basic standard for election administration and provides opportunities for communities to enhance these standards based on their own community needs. The standards and the choices for enhancements are all highly prescribed in the legislation. This is to ensure fairness, accessibility, and openness while still being responsive to the needs and capacities of different communities. As an example, the legislation provides that advance voting opportunities must be provided on the 10th day before general voting day and on one other day established by bylaw. Communities under 5, 000 may, by bylaw, opt out of the second advance voting day. All communities may, by bylaw, establish additional advance voting.

The provincial *Election Act* covers a similar range of issues to that contained in the local government provisions but there are several key differences. The provincial system sees the election of representatives to *one* government (as opposed to over 250 government bodies); with elections overseen and conducted under a single administrative body (EBC) which is funded by the province (whereas each local government runs and pays for its own elections). Given the single administration and single election, the provincial Act is far more prescriptive and detailed on many matters of election administration and process. The table below, details a *few* examples as to how these differences play out in the election provisions for provincial and local elections.

Province	Local Government
<ul style="list-style-type: none"> • The selection/appointment of the Chief Election Officer (CEO) requires a recommendation of the Legislative Assembly (LA) and a unanimous recommendation by a special Committee of the LA. 	<ul style="list-style-type: none"> • The local government appoints the CEO for an election. • CEO must not be a candidate, candidate representative or financial agent in the election and must take a solemn declaration that they will fulfill their duties

<ul style="list-style-type: none"> • CEO is an officer of the LA and has a set term of office • The CEO is required to be impartial and must not hold another office or engage in other employment or be a member of a political party • CEO must take a solemn declaration that to impartially exercise the powers and duties of office 	<p>impartially and in accordance with the Act.</p>
<ul style="list-style-type: none"> • a list of electors is mandated 	<ul style="list-style-type: none"> • can choose to use the provincial list, create their own list or have election day administration (or use a combination of all three);
<ul style="list-style-type: none"> • mail ballot voting is required to be available across the province 	<ul style="list-style-type: none"> • can choose to adopt mail balloting provisions or not
<ul style="list-style-type: none"> • advance voting opportunities are all at the same time on the same days across the province 	<ul style="list-style-type: none"> • there is only one set advance voting opportunity (i.e., same time and day across the province). • for communities over 5000 there must be second advance voting day but the day and time is set by the local government. • Any additional days and times at local government discretion

Additionally, provincial political representation is for a parliamentary democracy (Government and a publically funded opposition) which is underpinned by a party system. As a consequence the *Elections Act* has detailed provisions respecting party registration, reporting and involvement in system, such as participation in an Election Advisory Committee in legislative and regulatory amendments/development and rules regarding receipts for income tax purposes.

History of the Legislation

The current legislative framework came into being in 1993 and was the result of an extensive, collaborative review process involving the Union of BC Municipalities (UBCM) and Municipal Officers Association (the precursor of the Local Government Management Association). Also involved in that review process were the Ministry of Education, the BC School Trustees Association; and Elections BC. As part of the review process three discussion papers were released – a 1990 technical review (which was circulated to local government administrations); a discussion paper (1992) and a “white paper” (1992) which included the proposal in detail which were public circulated. The review process began in 1990 and culminated with the passage of the *Local Elections Reform Act* in 1993 – amending the *Municipal Act*, the *Vancouver Charter*, the *Islands Trust Act* and the *School Act*.

The review process was guided by several principles – principles that are fundamental to all elections in a democratic society. These principles were:

- Accessibility
 - ✓ All electors should be able to take part
 - ✓ The process should be efficient
 - ✓ Elections legislation should be clear and understandable

- Openness
 - ✓ Elections should be conducted in the public eye
 - ✓ Rules and procedures should be clear to all

- Honesty
 - ✓ Secrecy of the ballot is vital
 - ✓ The integrity of elections should be protected from abuse

- Fairness
 - ✓ Rules of due process and natural justice should apply
 - ✓ “One person, one vote”
 - ✓ Rules and procedures should apply equally to all

- Balance
 - ✓ The needs of public and local governments should be considered
 - ✓ The different roles of local governments and the province should be defined

- Flexibility
 - ✓ Consistency with provincial and federal elections rules is needed, but should not override the unique needs and circumstances of local government

- Respect
 - ✓ Voters have the right and ability to choose their representatives

Subsequent to the 1993 legislation, there have been several targeted reviews of the local government election provisions – both internal to government and external. These reviews include the 1998 UBCM/Ministry accountability working groups and Ministry lead public forums; the 1998 Kennedy

Steward and Patrick Smith (SFU) report on Local Government Accountability in BC; a 1998 Paul Tennant and Julian West critical response to the Steward/Smith report; a 1999 Ministry discussion paper on campaign expense limits; and the 2004 Thomas Berger Report for the City of Vancouver.

Additionally, after each local government election year, the local government department has surveyed local governments about the process and the legislation. The last two general election cycles have seen this survey formalized and expanded to include candidates.

As a result of many of these reviews and other on-going internal monitoring of the effectiveness of the election provisions, the 1993 legislation has seen significant legislative updating over the years.

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| 1994 | Amendments to reflect the experience of the 1993 local general elections – most of these amendments were of a minor nature. The most substantive amendments being to provide additional protections for access and use of personal information collected and used during the election process. |
| 1998 | “House- keeping” amendments to address problems raised by local governments (e.g., use of SIN numbers and access to records), etc |
| 1999 | Significant amendments to strengthen the campaign financing disclosure system; amendments: to introduce nomination deposits; facilitate the use of voting –counting machines; tighten up rules for election day advertising and respecting registration of voters, etc |
| 2000 | Amendments clarifying that only individuals could vote as non-resident property electors and improving notice requirements for “other voting” |
| 2008 | Significant amendments to streamline administrative aspects of the local elections process (e.g., simplifying registration of non-resident property electors); improve accessibility by simplifying advance voting and mail voting provisions; and increase the transparency of local elections campaign financing. ⁴ |

⁴ This list is of the most significant amendments; the elections provisions have been amended in other years as well, but those amendments were minor or consequential in nature.

References

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