

# Political Party Information Session

Meeting Notes

Monday, October 16, 2017

## Present

### Elections BC

- Keith Archer, Chief Electoral Officer
- Anton Boegman, Deputy Chief Electoral Officer, Electoral Operations
- Nola Western, Deputy Chief Electoral Officer, Funding and Disclosure
- Amie Foster, Manager, Executive Services and Corporate Administration (notes)

### Political parties (alphabetically by party name)

- B.C. New Republican Party: Wei Ping
- British Columbia Action Party: Rod Munch, Al Marcoux
- British Columbia Conservative Party: Jeff Bridge, Andrew Mann
- British Columbia Libertarian Party: Theodor Tonca, Paul Geddes
- Christian Heritage Party of British Columbia: Susan Takata, Jan O'Leary
- Green Party Political Association of British Columbia: Laura Lavin, Simon Lewis
- British Columbia Social Credit Party: Carol Woolsey

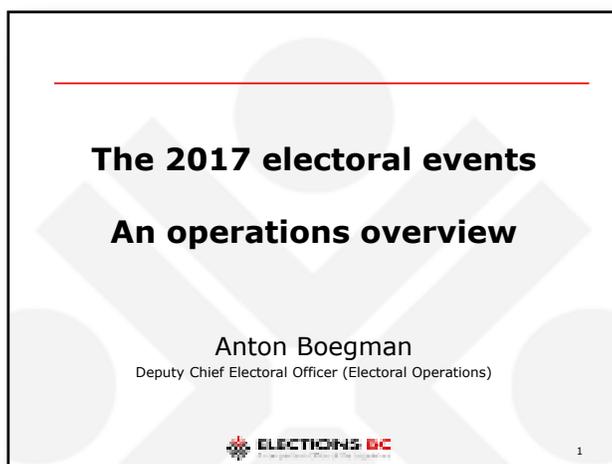
The meeting commenced at 1:35 p.m.

## 1. Welcome and introductions

Keith Archer, Chief Electoral Officer (CEO) welcomed attendees and described the purpose of the Political Party Information Session as a component of Elections BC's (EBC) overall stakeholder strategy. He also described the role of the Election Advisory Committee (EAC) which is established under sections 14-16 of the *Election Act*. Keith invited attendees to pose questions and observations during the discussion portion of the meeting and committed to finishing on-time per the meeting agenda.

## 2. 2017 Provincial General Election overview

Anton Boegman provided an overview of the 2017 Provincial General Election and Enumeration. His presentation materials are attached below for reference:



### Questions and discussion

- How do you determine voting areas? Square footage?
  - Voting areas are determined by the number of assigned voters. Generally, 400-700 voters are assigned to each voting area, with higher numbers used in dense urban electoral districts, and lower numbers used in districts that have a mix of urban and rural areas.

## 3. Electoral finance update

Nola Western shared the following information with meeting attendees:

### *Local Election Campaign Financing Act (LECFA)*

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The *Local Elections Campaign Financing Act* or LECFA is not directly related to provincial political parties, but something that is a significant part of Elections BC's work.

LECFA gives the responsibility of administering and enforcing campaign finance and advertising provisions for local elections to the CEO. It was first in effect for the 2014 General Local Elections.

Since those general elections, there have been 71 by-elections and 37 non-election assent voting events (often called referendums) across B.C. and EBC staff have managed the campaign financing and election advertising aspects of each of those 108 events.

The next general local elections will take place on October 20, 2018 and those elections will be the first local elections in BC to have spending limits. The spending limits will vary by jurisdiction and office sought. They will be calculated by the Ministries of Municipal Affairs and Housing and Education and provided to Elections BC. Once we receive them, there will be a local elections expense limit look-up tool on the Elections BC website.

## Redistribution of Electoral Districts

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The electoral districts were redistributed in 2015 but the new districts didn't come into force until the writs were issued for the May 2017 Provincial General Election.

All constituency associations registered under old electoral districts either voluntarily deregistered before Writ Day, April 11, 2017 or were automatically deregistered on that day. One-hundred voluntarily deregistered and only 19 waited until Writ Day.

Currently there are 88 new constituency associations registered under the new boundaries.

## Supreme Court of Canada Decision

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In January this year the Supreme Court of Canada issued its decision in a case that has been working its way through the courts for several years.

The B.C. Freedom of Information and Privacy Association had challenged the requirement for all third party election advertising sponsors to register, regardless of the value of their election advertising. They argued that the registration requirement for sponsors of election advertising who spend less than \$500 infringes section 2(b) of the *Canadian Charter of Rights and Freedoms* that guarantees the right of expression.

The Supreme Court found that the requirement for sponsors to register is constitutional. However, it also found that some individuals who make their own election advertising materials on a small scale, such as handmade brochures and signs, are not actually sponsors and so do not have to register under the *Election Act*.

Elections BC was left to operationalize the Court's decision and concluded that the ability to conduct election advertising without actually "sponsoring" it applied to individuals only, not organizations and that those individuals must:

- use their own supplies and equipment to make the advertising – such as their own paper and printer
- make the advertising themselves and not work with anyone else
- make 25 or fewer signs or pamphlets, and
- hand-deliver pamphlets directly to other individuals

The court referred to there being no question of who is responsible for the advertising when an individual distributes handmade flyers.

During the general election, Elections BC did not become aware of individuals conducting such handmade election advertising without being registered.

## 2017 Provincial General Election

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Three-hundred and seventy-one candidates, 18 political parties that ran candidates, 87 constituency associations and 294 registered advertising sponsors participated in the 2017 Provincial General Election.

The deadline for filing the election financing and advertising disclosure reports was August 8, 2017. Nine candidates were granted extensions to that filing date because of a variety of extraordinary circumstances, including three due to the wildfires in the interior.

Five candidates filed their reports late and paid a \$500 late filing fee. In the end, only one candidate failed to file. Otherwise, all of the parties and constituency associations filed their election financing reports by the deadline.

We are now in the process of reviewing those reports.

## Bill 3

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Bill 3 – the *Election Amendment Act*, was introduced on September 18, and will now go through the Committee stage.

The highlights of the Bill that directly affect political parties and their candidates and leadership contestants are:

**Annual allowance** – for political parties that received at least 2% of valid votes in B.C. or 5% of valid votes in those EDs in which the party ran candidates in the May 2017 GE.

For 2018 the allowance would be \$2.50 for each vote the party received in the 2017 GE. The annual amount decreases over time and is scheduled to end in 2022.

There are only three parties that would qualify for this allowance – the same three that are on the Election Advisory Committee (EAC).

### **Reimbursement of Eligible Election Expenses**

The Bill also provides for public funding of eligible political parties and candidates in the form of a partial reimbursement of their election expenses.

This is quite a common practice in the rest of Canada. In fact, along with the three territories, Alberta and B.C. are the only provinces that do not reimburse candidates who receive a minimum percentage of votes for eligible election expenses.

For candidates, Bill 3 calls for reimbursement of 50% of reimbursable expenses up to 50% of the candidate's expenses limit, if a candidate receives at least 10% of valid votes in their ED. For parties, the reimbursement is also 50% of eligible expenses up to 50% of the limit and the party must have received at least 10% of valid votes province-wide.

Again, based on the May 2017 election results, the only three parties that would qualify are the three on the EAC. About 240 candidates would qualify.

### **Contribution Source Restrictions & Limits**

There have been some source restrictions on political contributions in B.C. for some time, such as the prohibition on contributions from charitable organizations or federal political parties; the new Bill expands those prohibitions.

If passed, the Bill would ban contributions from any organization and only allow Canadian citizens or permanent residents who normally live in B.C. to make political contributions. Such eligible individuals would be limited to giving a maximum of \$1,200 a year to a party, its candidates, nomination contestants and constituency associations. They could also give \$1,200 to each leadership contestant and to independent candidates.

There are two types of political contributions that will not be subject to the \$1,200 limit:

- Fees paid to attend a party leadership convention if they are \$350 or less, and
- Other party convention fees of \$350 or less in a single calendar year.

The \$1,200 will be adjusted for changes to CPI for 2019 and beyond.

Remember that since organizations will be prohibited from making political contributions, they cannot allow their employees to do any work for a political party or candidate during working hours.

### **Ban on Loans**

The Bill bans loans except from a savings institution (bank, trust company, credit union) and since they are organizations, banks will not be allowed to forgive any loans or charge less than the prime interest rate, because to do so would be to make a political contribution.

Existing loans from individuals or organizations other than savings institutions will have to be fully paid off within one year of the Bill receiving Royal Assent. (The CEO can make exceptions under certain circumstances.)

### **Specified Fundraising Functions**

Related to political contributions are the potential new rules for "specified" fundraising functions – those attended by a member of Cabinet, a parliamentary secretary or a leader of a major political party (major being those parties with seats on the Election Advisory Committee).

If a major political party holds such a fundraising function, they will have to file a report with EBC at least seven days before the fundraising function. That report must include the names of the cabinet ministers, etc. who will attend, the ticket price, date and time and name and address of the place where the function will be held.

Elections BC will then post that report on our website.

A second report with details of each specified fundraising function will also have to be filed with EBC within 60 days of the event and again posted on our website.

There will also be a ban on holding specified fundraising functions with a charge of more than \$100 in private residences.

### **Lowered Spending Limits**

The Bill decreases the election expenses limits for political parties and candidates by about 25%.

The limit will be \$58,000 for candidates, down from \$77,675 for candidates last May. The party limit will be \$1.16 for each registered voter in B.C. for a general election and \$58,000 for a by-election.

That formula would have resulted in a spending limit of \$3.7 million for political parties in last May's general election compared to the \$4.9 million actual limit.

These limits will be adjusted for changes to CPI for 2018 and beyond.

### **Third Party Sponsors**

There are other provisions in the Bill that impact third party advertising sponsors, although they won't impact political parties directly because of course third parties must be independent of political parties and candidates.

Some of the changes for third parties are:

- a ban on sponsorship contributions from organizations
- a limit of \$1,200 per year for individual sponsorship contributions
- a 60-day pre-campaign period for election advertising sponsors that sponsor direct election advertising (though there will be no spending limit in the 60-day pre-campaign period), and
- new reporting requirements for sponsors who sponsor more than \$10,000 of election advertising in the 60 days before the campaign period or during the campaign period.

### **Transition**

The Bill is still before the Legislature but there are some commencement rules of which you should be aware.

The reporting requirements for specified fundraising functions will be retroactive for fundraising functions that were not publicly announced on or before September 18 (the date of first reading). So any fundraising function that meets the criteria for a specified fundraising function that was not publicly announced on or before September 18 must be reported to Elections BC no later than seven days before the function in accordance with section 6 of the Bill.

For political contributions, the transition sections establish that contributions from organizations will be banned once the Act comes into force upon Royal Assent. Parties can keep political contributions from organizations that they receive before then but they cannot use those political contributions to pay for election expenses incurred after Royal Assent. They can be used to pay off debts incurred in the May 2017 Provincial General Election but not for future elections.

The \$1,200 limit for contributions from individuals does not come into effect until January 1, 2018, but you can only use up to \$1,200 of a contribution from an individual made before January 1, 2018 for paying future election expenses.

If you have already received \$3,000 from an eligible individual, or you receive \$3,000 before January 1, 2018, you can keep that \$3,000, but you can only use \$1,200 of it for future elections.

### **Wills**

The limit on political contributions through wills does not apply to wills made before January 1, 2018. So if someone has already written you into their will so that you receive more than \$1,200 through that will, that is permissible.

Bill 3 is still a Bill and not legislation. As it progresses through the Committee stage, there may be amendments and of course, the Bill may not be passed by the Legislative Assembly.

Elections BC is working to ensure that if and when the Bill receives Royal Assent we are ready to administer the new provisions. However, given that we cannot finalize things, including guides and forms, because of the chance of amendments, it is unlikely all of our materials will be complete by the time the Bill comes into force. As those materials are completed we will notify you.

## **4. Post Event Evaluation and General Discussion**

Keith moderated a discussion of the group and welcomed questions and observations.

### Questions and Discussion

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- How will changes to finance rules related to contributions from sources other than individuals prior to Royal Assent of Bill 3 be enforced? Will forms change?
  - Parties may wish to segregate the balance or maintain a sub-ledger until the funds in question are depleted. Changes to forms will be contemplated as the Bill proceeds through the legislative process, and the EAC will be consulted on such changes.
- An attendee thanked the staff at Elections BC for their approachability and rapid responses, and remarked on how valuable such support is to political parties.
  - Acknowledged.
- Did the use of technology in the 2017 Provincial General Election make the information vulnerable?
  - Technology was not used for voting during the last provincial general election. It was used only to simplify existing paper-based administrative processes by Elections BC staff (i.e. printing labels for certification envelopes to reduce transcription errors).
- If changes to the *Election Act* become law, how should parties handle contributions that were willed to the party prior to Bill 3?
  - Individual contributions of \$1,200 per year can be used for future election expenses. Anything over and above that should be segregated for other political party expenses (i.e. used for the party's operational expenses).
  - Any contributions willed to the party prior to January 1, 2018 (if the legislation is passed in its current form) would be exempt from the \$1,200 limit but a maximum of \$1,200 of such a legacy can be used for future election expenses.

- Do Bill 5 changes to the election calendar mean that the government cannot call an early election?
  - No, they do not. The proposed legislation refers to scheduled elections. The Premier can still request that parliament be dissolved and an election called per the *Constitution Act*.
- An attendee noted their concern with the way third parties use and disclose contributions.
  - Bill 3 places significant restrictions on third parties (in addition to restrictions currently in place). See <https://news.gov.bc.ca/releases/2017PREM0085-001593>
- If the current legislation passes, and a referendum results in a change to the electoral system, which system will be used for the next election?
  - Elections BC will be required to deliver an election under the current system for any election through July 1, 2021 (i.e. a snap provincial general election). The fixed date election in 2021 would be delivered under the new system. This would result in Elections BC preparing for two separate election scenarios under two different systems concurrently.
- Are standing nominations accepted now?
  - Yes - they can be submitted anytime, and we recommend that you submit them as early as possible to minimize the workload for staff, and to ensure that there is plenty of time to correct errors or omissions.
  - Standing nominations submitted now will be valid for the next election in that electoral district.
- How will Elections BC educate the public about the referendum? Have you looked at best practices in other jurisdictions?
  - Elections BC will help educate the public about the method and the process. Any role beyond that will be established by regulation.

## 5. Legislative Change Update

Keith presented the group with a summary of proposed legislative changes to the *Election Act* (Bill 3), the *Constitution Act* (Bill 5) and the *Electoral Reform Referendum 2018 Act* (Bill 6) and encouraged discussion regarding the implications of such changes. A summary of the proposed legislation can be accessed here:

- <https://news.gov.bc.ca/releases/2017AG0028-001683>
- <https://news.gov.bc.ca/releases/2017PREM0085-001593>

## 6. Closing Remarks

Keith thanked attendees for their participation and reminded them to contact Elections BC staff if they have any outstanding questions.

He explained that Elections BC is a service organization that works closely with parties to ensure processes are understood, and to receive input in areas that are within the organization's mandate.

A report on recommendations for legislative change as well as a related report on voting modernization will be tabled in late winter or early spring. Both reports will be presented to the EAC in the new year, and Elections BC welcomes suggestions from political parties in advance of that time. In the meantime, Elections BC continues to adjust internal processes to reflect the heightened state of readiness reflective of the current political climate.

Attendees may forward any questions regarding information presented at the Political Party Information Session to Amie Foster, Manager, Executive Services, by phone at 250-952-6226 or by email at [amie.foster@elections.bc.ca](mailto:amie.foster@elections.bc.ca).

The meeting adjourned at 3:49 p.m.