

Election Advisory Committee (EAC)

Minutes

Monday, October 16, 2017

9:30 a.m. — noon

The Fairmont Waterfront 900 Canada Place Way, Vancouver, B.C.

Present

Committee Members (alphabetically by political party name)

- Raj Sihota, BC NDP
- Jordan Reid, BC NDP
- Emile Scheffel, British Columbia Liberal Party
- Sharon White, British Columbia Liberal Party
- Chris Pettingill, Green Party Political Association of British Columbia
- Rita Fromholt, Green Party Political Association of British Columbia

Elections BC Staff

- Keith Archer, Ph.D., Chief Electoral Officer (Chair)
- Nola Western, CPA, CA, Deputy Chief Electoral Officer, Funding and Disclosure
- Anton Boegman, Deputy Chief Electoral Officer, Electoral Operations
- Amie Foster, Manager, Executive Services and Corporate Administration (minutes)

The meeting commenced at 9:32 a.m.

1. Welcome and introductions

Keith Archer, Chief Electoral Officer (CEO) welcomed attendees and described the role of the Election Advisory Committee (EAC) as established by sections 14-16 of the *Election Act*. He also encouraged questions and discussion throughout the meeting.

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:



Discussion Questions

- Do you have statistics regarding the districts that had the highest registration rates?
 - Compilation of this information is underway, and is expected before the end of the year.
- What was the enumeration approach? Who was hired to conduct this work?
 - The enumeration approach is described in the presentation above. Enumerators were hired through a merit based process, typically from each district's representative demographic groups.
- The number of individuals reached through targeted enumeration seems low, especially for First Nation voters.
 - Elections BC strategic outreach program was multi-faceted and included the enumeration activities described here, a comprehensive communications strategy, a "bottom-up" outreach program delivered in the field by district electoral officers (DEOs), and a top-down program delivered through our headquarters outreach team.

All 203 First Nation communities in B.C. were either visited by a DEO to conduct outreach, visited by an enumeration team, or received a package of information from Elections BC. We then followed-up with information delivered to each community via fax (a model also used by Elections Canada).

Ultimately, the list is of different quality for different kinds of voters and it is not a problem that is easily solved. We know that if we get an individual to register they are

more likely to participate. Despite its difficulty, we will continue to work to engage groups that face barriers to participation.

- Do your slides represent the total change in registration between Feb 14, 2017 (start of enumeration) and close of voting (May 9, 2017)? Was this more successful than in 2013?
 - Yes, the figures within the presentation represent all of the changes to the voters list during that period. The figures show that the 2017 enumeration was more successful than the enumeration conducted in 2013. That is in 2017, after all confirmations, removals, updates and additions were reflected in the list, there was a net increase of 697 voters. In 2013, after a similar effort, there was a net decrease of 30,000 voters.
- What are your plans for online services related to nominations? The political parties provide a lot of centralized support to candidates during the nomination process and are an important stakeholder. Also, parties may not want candidates doing this work on an individual basis.
 - Online nomination support is only a concept at this point, and Elections BC acknowledges the important role of the parties in the nomination process. The goal is more efficiency, and accuracy.
- Can you provide some context regarding voting locations and how they are selected?
 - District electoral officers determine voting locations based on the population, availability of the location, and the size of the venue. The key driver is equitable accessibility for voters. Elections BC works to continually improve these services by assessing where there may have been issues and responding with alternatives. Elections BC would also like to look at moving forward with social media tools that can help voters minimize wait-times by offering more information about waits at specific voting locations (crowd sourced information).

3. Electoral Finance Update

Nola Western shared the following information with meeting attendees:

Local Election Campaign Financing Act (LECFA)

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 B.C. 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

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

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 did find 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

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

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.

Discussion Questions

- One event per-person at \$350 - is that correct?
 - Yes and adjusted for CPI.
- If Bill 3 passes, will individuals still be allowed to provide in-kind contributions or contributions of time toward a campaign?
 - In-kind contributions are the same as political contributions of money and will be limited to a value of \$1,200.
 - The volunteer services rules do not change. If individuals provide services on their own time, they are not making a contribution, but they must not be paid for this work.
- Under Bill 3, what is the new candidate spending limit?
 - The limit will be \$58,000 and will be adjusted for changes to the CPI.
- If Bill 3 passes we can only use the funds received from organizations on operational expenses or past events. We cannot use this money for future elections, right?
 - Correct, you will not be able to use political contributions from organizations for future election expenses. Elections BC will update the regulated forms in consultation with the EAC. Some political parties may wish to segregate bank accounts or develop a sub-ledger to ensure compliance.

4. Post Event Evaluation and General Discussion

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

Discussion Questions

- In relation to the RCMP investigation I have been looking at the financial transactions on the Elections BC website. I noticed that a number of transactions have dropped off. Is this a normal system error, or part of the investigation? Is there a way to get a summary of what was removed and why, over a period of time?
 - The changes you are referring to occur when a contribution is returned by the party to the contributor, or when the contributor is changed as permitted under the *Election Act*. The *Election Act* does not require Elections BC to publish a summary of these changes, however you may wish to review forms labeled S-Ax on FRPC, the political contributions database, or visit Elections BC's newsroom for more information.
- Can you please describe how Elections BC determines advance voting locations? Our sense was that some areas were well served and others less so. Are there guidelines for establishing advance voting locations? If not, can you please develop guidelines for DEOs to regularize this process?

- We don't have a set of strict guidelines due to the variations in districts and populations. It is the responsibility of the district electoral officer to best determine how they will serve the district on the basis that voters within a district should have access to at least one advance voting opportunity. Obviously, availability of potential voting locations and other factors can limit some choices. However, if you have input regarding specific districts, we can share that with DEOs for future events. We are also aware that the new variable hours for advance voting caused some confusion and we are working to make the messaging more effective.
- When will the final voter data from the 2017 Provincial General Election be available?
 - The scrubbed list of all voting day transactions will be available before the end of the year.
- It was very difficult to manage passwords to access advance voter turnout data, and it was inconvenient that the parties could not manage this data centrally (it was distributed via candidates). Can this be changed to allow parties to access advance voting data on behalf of their candidates?
 - This structure is a feature of new provisions of the *Election Act*, which allow participation data to be shared with political parties in the non-event period, but limits the sharing of participation information to candidates in the event period. A change in this format would require legislative change.
- Not all parties have the same resources. We would like more guidance on keeping voter data properly secured.
 - Acknowledged
- Is Elections BC facing any technological or social constraints in collecting voter information? Can you get information from Health and ICBC?
 - We have an information sharing relationship with ICBC, Vital Statistics, Elections Canada, and local governments per the *Election Act*. We do not receive voter information from the Ministry of Health or Citizenship Canada. In some cases there is room for innovation. What we really need is for individuals to tell us when their information changes.
- Thank you for your quick response during the flooding in the interior.
 - Acknowledged.
- We were challenged by some inconsistency related to the information we received from DEOs during the election, i.e. when and how candidate representatives were permitted to collect information from "bingo sheets" at voting places, and the arrangements for initial and final count.
 - When there is an issue, we encourage you to call Elections BC. We will work with you to correct the situation.
- A new training model for DEOs was used in this election. Do you think that this model contributed to the inconsistency we described? Would more training help things run more uniformly across districts?
 - There are always opportunities for more training. This event saw significant changes to processes, new DEOs (40%) and the introduction of technology in the voting place. The new training model mixes online and in-person training in small groups to reinforce learning, and we feel that the model works well. There is always room for improvement – and training is a top priority of ours, as it directly affects voters.

- Some of our campaign offices had to move or close after DEO offices were established nearby (signage must be a statutory distance from voting). Can we get information about where DEO offices will be opening, so we can avoid this?
 - Yes, we may be able to share this information on our website in advance of the offices opening. We also understand the realities of finding rental space in some communities. If/when these conflicts occur, we recommend that you speak with your DEO to find a reasonable solution (i.e. modifying signage, establishing a co-location agreement). As always, you can also call Elections BC with any concerns.
- In some cases we had difficulty getting information from DEOs regarding how many boxes would be counted at specific times during initial and final count activities. We were told it was at the discretion of the DEO. Can you develop a communication standard so we can plan for the appropriate number of scrutineers?
 - Yes, that is something we can consider.
- There seemed to be a lot of rejected absentee ballots. We heard that some didn't make it to their home district, that some individuals were given the wrong list of candidates, and that some were given the wrong ballot (i.e. regular instead of write-in).
 - Election officials and voters make mistakes, however, the rejection rate for absentee ballots was within the normal range. There was also some confusion on the part of the voter following the recent electoral district redistribution.
- We would like an online payment option for nomination deposits.
 - Acknowledged.
- We would like phone numbers – people don't answer their doors.
 - Elections BC does not collect phone numbers (unless the individual chooses to provide it), and this information is not included in the information candidates and political parties receive from Elections BC, as it is not a requirement of the *Election Act*.
- The referendum will be conducted using vote-by-mail. Does this preclude other options like online voting?
 - This will depend on the details contained in the Regulations. There is no online voting option in British Columbia. You may wish to review the 2014 Report of the Independent Panel on Internet Voting.
- Have you done any research on best practices for the framing of the referendum question, how information about the choices is best communicated, or the appropriate threshold?
 - These are questions best left to policy-makers. Our responsibility is to deliver the referendum as prescribed in the legislation and Regulation. Sometimes we do work with colleagues in other jurisdictions to learn about best practices in service delivery and package design.

5. Legislative Change Update

Keith presented the a 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 Archer thanked members for their thoughtful comments and emphasized the anticipated follow-up with this group:

- If/when Bill 3 passes, consultation regarding new regulated electoral finance forms will take place (via email) by the end of the calendar year.
- A report to the Legislative Assembly on recommendations for legislative change is in progress. This is a usual practice following a provincial general election. A face-to-face meeting with the EAC will be scheduled in February or March to review the recommendations before the report is tabled in the House. EAC members are invited to provide additional recommendations to Elections BC ahead of that time.
- A "Vision for Future Modernization" report is also expected to be tabled in the spring, and may be linked to the report on recommendations for legislative change.

Keith thanked the group again for their time and adjourned the meeting at 11:51 a.m.

Attendees may forward any questions regarding this meeting to Amie Foster, Manager, Executive Services and Corporate Administration, by phone at 250-952-6226 or by email at amie.foster@elections.bc.ca.