

*DISCUSSION PAPER ON PROPOSED CHANGES
TO THE LOCAL AUTHORITIES ELECTIONS ACT*

Summary of Replies

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The Discussion paper was made available to the public on the Municipal and Community Affairs website in December, 2008. In addition, copies of the paper were sent to every municipality in the Northwest Territories. The NWT Association of Communities (NWTAC) and the Local Government Administrators of the NWT made special efforts to direct their members to the MACA website.

Ten replies were received by the deadline date of February 28, 2009 from a variety of persons and groups including the NWTAC, Alternatives North, municipal councils and councillors, Senior Administrative Officers/Returning Officers, an MLA, and the Former Chief Municipal Electoral Officer. Not every question was answered with the simple Yes or No. In some cases, the questions were left unanswered; in others the respondents placed conditions on their answers; while others left comments only.

QUESTIONS AND REPLIES:

1. Residency requirement: Should the residency requirement be clearly modified to allow for temporary absences?

Yes: 7

No: 1

Comments:

-The question really doesn't give the respondent an opportunity to give an opinion if the 12 month residency period is too long.

- The residency requirements should be modified to allow for temporary absences such as to attend secondary education or to work outside of the community in which they reside.

- We agree that there should be some provisions for temporary absences due to educational and medical needs.

2. Eligibility and indebtedness: Should the rules about indebtedness apply to persons who wish to run for a district education authority? That is, a person cannot run for the district education authority if he or she owes (or holds the controlling interest in a company that owes) a debt of \$500 or more for more than 90 days to the municipality?

Yes: 7 No: 2

Comments:

- It would be appropriate for the same restrictions to apply on School Trustees as for candidates for Municipal Elections. The City does segregate the amount of outstanding taxes between Municipal and School taxes. The City would only be able to determine school tax indebtedness if it is conducting an election on behalf of the School Board (s). It would be the responsibility of the applicable School Board to provide advice of any other indebtedness to the Board.

- We agree that the indebtedness provisions should apply equally for local district education authorities.

3. Shorten the election calendar

(a) Do we need a 2-week nomination period, or would 1 week be enough time for people interested in running, to complete their nomination process?

1 week: 3 2 weeks: 5

Comments:

- It is common for people to be away for 2 weeks at a time while vacationing. The City would like to ensure sufficient time for all candidates to file their nomination papers, and, as such, unless there is a way for a potential candidate to complete their nomination papers prior to any absences from town, the City supports maintaining the two week nomination period.

- We are of the view that there should be a two-week nomination period to allow for work rotations.

(b) Is the current 5 week period from the close of nominations to elections, too long?

Yes: 5 No: 2

Comments:

- *The City supports a 28-45 day period between the close of nominations and Election Day.*
- *4 weeks*
- *We agree that this could be shortened to match territorial elections.*

(c) The election period should be at least 21 days and no more than 45 days.

Yes: 5 No: 2

Comments:

- *28-45 days*
- *The City of Yellowknife supports a 28-45 day period between close of nominations and Election Day.*
- *We do not agree with shortening the election period to 21 days as this is too short a period for larger, tax-based communities.*

3. Notice of plebiscite question: Should the requirements for notice of plebiscite questions be the same as for municipal and district education authority elections?

Yes: 6 No: 2

Comments:

- *Notice provisions should include the date set for the plebiscite and within a minimum period of time the plebiscite question itself.*
- *Allow for flexibility. 14 days is sufficient.*

- Restricting plebiscites to election notice requirements may significantly delay a project or cause the City to incur additional election costs. The City supports a 14 day minimum notice requirement.

5. Period for withdrawing nomination

(a) Returning Officers or the CMEO should have the authority to reprint ballots, when a candidate involuntarily withdraws or dies?

Yes: 8 No: 0

Comment:

- If a candidate dies the RO should be able to remove their name from the ballot.

(b) The CMEO should have the authority to:

(i) extend the nomination period, when a candidate dies or withdraws

Yes: 8 No: 0

(ii) reschedule the election

Yes: 6 No: 0

Comments:

- Only if the number of candidates is less than what is required to fill all positions.

- The City supports authorizing the CMEO to extend nomination period or reschedule the election only in the event that there is no candidates, or an insufficient number of candidates, for a position as a direct result of the death or involuntary withdrawal of a candidate.

6. Alternate voting methods: Should municipalities be able to make bylaws about the kind of alternate voting methods to offer to voters?

Yes: 4

No: 5

Comments:

- *Municipalities should be able to enact bylaws about the alternative voting methods offered to voters.*
- *We are of the view that the legislation should provide some proven minimum standards rather than expect municipalities to set their own alternate voting methods.*

7. Increasing voting opportunities: check as many as you want:

- 3 Returning Officers should have the option to decide if people can vote in the Returning Officer's office;
- 5 The Act should make Returning Officers give people the option of voting in the Returning Officer's Office at certain times and days before the election;
- 2 Municipalities should be able to make the rules about increasing voter opportunities;

Comments:

- *Prefer the Act should permit the Returning Officer to provide extra voting opportunities taking into account local conditions such as rotation schedules to outlying camps, but the Act should include a provision the Returning Officer must notify the CMEO prior to the close of nominations of additional voting opportunities for an election. This permits a level of flexibility for unusual community circumstances that a municipality may not be able to meet by bylaw.*
- *The Act should make Returning Officers give people the option of voting in the Returning Officer's Office at certain times ad days before the election.*
- *We would change the wording from "option of" to "right"*

Alternate suggestions (Make as many as you wish. Add additional sheets if necessary):

8. Proxy votes: Should proxy voting be eliminated?

Yes: 1 No: 4

Comments:

- *Proxy voting should be eliminated, provided that alternative voting methods are implemented.*
- *If there are enough other provisions to allow for flexible voting, including voting at the Returning Officer's office, it may be possible to eliminate proxy voting. Minimally proxy voting should be limited to one per person. Proxy voting can be used by people with disabilities although it's probably better to have the returning officer handle the job.*

9. Deadlines for proxy vote forms: If proxy voting continues, should deadlines be set for picking up and delivering the proxy vote forms to the Returning Officer?

Yes: 7 No: 1

Comments:

- *Use current practice.*
- *In the event that Proxy voting is maintained, a deadline should be set for picking up and delivering the proxy form.*

10. Electronic vote counting: Should municipalities be able to use electronic vote counting if they pass a bylaw authorizing electronic vote counting?

Yes: 7 No: 1

Comments:

- *Municipalities should be able to use electronic vote counting if they pass a bylaw authorizing electronic vote counting.*
- *Although we are not sure why each municipality should have to pass their own by-law in this regard. Is it not possible to set the ground rules for electronic voting in the enabling legislation? There would likely be little demand for electronic voting outside the largest NWT communities. There may also be issues around the repair of malfunctions and the overall timing of elections.*

11. Tie votes

(a) Should municipalities be able to create a bylaw that would allow a run-off election where there is a tie vote?

Yes: 4 No: 4

Comments:

- *A municipality should be able to create a by-law that would allow a run-off election in the event of a tie vote, provided that a recount has taken place.*
- *We are not sure why each municipality should have to pass a by-law in this regard. We are of the view that it would be preferable that there should be a run-off election automatically and that rules, including the time for the rebalot and restrictions on further advertising.*

If you answered "No" to question 11(a) above, how should tie votes be handled? (please circle your choice)

- (a) The present system of the Returning Officer marking two pieces of paper with the candidates/ names and drawing them out of a receptacle: **3**
- (b) There should be a run-off election automatically: **1**
- (c) Other (describe):

Comment:

- Should be (a) after a recount if result still a tie.

12. Recount votes

(a) Should there be an automatic recount in the case of a tie ("equality of votes")?

Yes: 9 No: 0

Comment:

- There should be an automatic recount within a certain # of votes.

(b) Should municipalities be able to make bylaws about when to have a recount when votes are close (for example, the winning candidate received 2 votes more than the next candidate):

Yes: 6 No: 2

Comments:

- A municipality should be able to create a by-law about when to have an automatic recount if it is not specified in the LAEA, e.g., 3 vote separation.

- The right to a recount should be spelled out in the legislation as being something like a margin of less than 2% or 5 votes, rather than leaving it to each municipality to define.

13. Prohibiting candidate advertising in the voting station: Should a person's refusal to remove buttons, badges, etc., be an offence?

Yes: 6 No: 1

Comments:

- Interesting conundrum in Toronto where party politics are involved at the local level. No signs were worn but T-shirts with the colours of the party were used. There were no signs or names on the T-shirts, but the coloured shirts worn by people groups pointed to advertising for the candidate. The Returning Officer made them cover them with their coats or remove them (where possible) or change.

- A person's refusal to remove buttons, badges etc should be an offence.

-Penalties should be the same as for Territorial Elections.

14. Campaign contributions:

(a) Should municipalities have the power to make bylaws to require candidates to report campaign contributions and expenses?

Yes: 5 No: 4

Comments:

- Not unless campaign contributions can be tax deductible like Territorial or Federal. There would be a huge requirement for accountability and enforcement.

- A municipality should have the power to make a by-law to require candidates to report campaign contributions. (no comment on penalty)

- This should not be left to each municipality to decide. The legislation should set out some basic standards and guidance on how this should be done. We are of the view that there should be mandatory reporting disclosure for tax-based municipalities. Without mandatory reporting requirements, we are sceptical whether any municipality will require full disclosure.

We are aware that there has been some voluntary disclosure of elections contributions and spending at Yellowknife City Council but some elected Councillors clearly stated that they would not report on contributions or spending until forced to do so by legislation. It is a fundamental right of voters to have fair and open elections. This includes full disclosure of campaign contributions and spending. As with territorial elections (see Elections Act s. S. 238-260), there should be some consideration of spending limits and maximum individual contributions from persons or businesses, but mandatory reporting is an essential first step.

We are also of the view that failure to report campaign contributions and spending should be grounds for removal from office, along with other appropriate measures such as fines.

(b) If you answered yes to question 14(a) above, what should the penalty be? (check all that you want to apply)

2 Must vacate the seat they were elected to;

2 Can't run for office again for _____ terms;

- 2 terms

3 Pay a fine of up to \$_____.

- 1000

- 100

- maximum provided in the legislation

Comment:

- This would seem to involve the requirement for official agents to deal with finances.

15. Inducing votes: should the prohibition on inducing votes be broadened to make it an offence for anyone to promise a reward of any kind in return for a vote?

Yes: 8

No: 1

Comment:

- The prohibition should be broadened to make it an offence for anyone to promise a reward of any kind in return for a vote.

16. Additional corrupt practices: Should corrupt election practices be expanded to include the following (check all that apply):

5 Providing misleading information;

Comment:

- The Catholic School Board in 2006 specifically put out information in the format of the legislation to make it appear the legislation said candidates had to be Catholic.

- While we agree that this type of activity should not be allowed or encouraged, this may be a difficult matter to prove in a court of law.

8 Removing or defacing election signs and posters;

6 Campaigning on election day

Comments:

- Would all posters, buttons, signs and advertizing have to come down? That's campaigning. Be consistent with Territorial and Federal Guidelines.

- The meaning of "Campaigning should be clarified (e.g. advertising in print, radio or other electronic means but not including election signs etc.)

- In polling station

Other (describe):

17. Role of the Chief Municipal Electoral Officer: Do you agree that the CMEO should have increased powers to give direction to Returning Officers and other powers to ensure that elections are conducted in accordance with the Act?

Yes: 7

No: 1

Comments:

- Increased authority for the CMEO with specific legislative authority over Returning Officers is required.*
- The CMEO should have increased powers to give direction to Returning Officers and other powers to ensure that elections are conducted in accordance with the Act.*

18. Role of Chief Municipal Electoral Officer in controverted elections: Do you agree that the CMEO should have the authority to stop or postpone an election, rather than have to get the agreement of all candidates and go to a judge for a ruling?

Yes: 6

No: 2

Comments:

- Uncomfortable with the wording “where the truth of the election is denied” as it could lead to a misunderstanding of what the section is about. The legislation specifically states the controverted election is one where an inadvertent or unintentional mistake or action causes a result that would cause the election to be invalid, such as the absence of a candidate’s name (which has happened). We are talking of an election that has already commenced. I don’t think getting a majority rather than all of the candidate’s names is onerous, but the application before the Supreme Court is onerous and expensive. This permits the correction to be made and*

the election to commence once again, perhaps within the same day once the error is corrected. The postponement for a community emergency is a separate section. The Returning Officer, in consultation with the CMEO, may postpone an election for a community emergency.

- The CMEO should have the authority to stop or postpone an election, rather than requiring the agreement of all candidates and go to a judge for a ruling.

19. Penalties for election offences

(a) Should the penalties be increased and expanded?

Yes: 2

No: 7

(b) What should be the maximum fine? (check the one you prefer)

6 \$5,000

1 \$10,000

___ Other (specify amount)

(c) In addition to a fine or jail, should the convicted person be barred from running in the next election?

Yes: 4

No: 3

20. Are there any other changes to the Local Authorities Elections Act that you want? Please tell us about any other changes you want, and why they are important. Add extra sheets if necessary.

- There is no broad question respecting the eligibility of candidates, such as the 12 month residency, debt provisions, criminal records etc. There has been great debate about the 12 months, or 1 month as recently stated. Is 12 months too long or 1 month too short. Is the bar to persons with debts and criminal records seen to be fair? Have there been recent challenges to these prohibitions

-Allow campaign contributions to be tax-deductible so that contributors will be able to claim their contributions on their annual tax claim.

- We are of the view that there should be a mandatory requirement for a public hearing on any by-law that establishes or changes a ward system (LAEA s. 14 and 15). This is a major change in the organization and structure of local authorities and there should be public notice and an opportunity for public comment.

A candidate should not be able to assist a voter in casting a vote (s. 70(2)(a), 74). There was a recent case in the territorial election where a candidate assisted a voter in casting a vote. The perception of a conflict of interest is obvious and this practice should be specifically prohibited.

A candidate should not be present in the polling station other than for casting that individual's vote (s. 72(1)(c)). This could result in unnecessary intimidation for voters and leads to a perception of conflict.

There should be some consideration of rules that should govern campaigning similar to those found in the Elections Act s. 99-105 for entry into multiple unit buildings, posting of campaign signs, pledges and broadcasting on the day of the election

S. 72(1) of the LAEA should set out the rights and responsibilities of polling agents inside a poll such as is done under the Elections Act s. 126-127.

Comments on Administrative Changes:

- We are of the view that the administrative changes outlined in the discussion paper are largely matters of good housekeeping and support these proposed amendments.

2-1 - Update the nomination paper to include qualification criteria on form.

2-4 -Should be 168 hours. 72 hours is too short. 1 week is more appropriate.

- The City would support removal within 7 days to allow volunteer workers to remove the signs after hours and on the weekend.

2-5 – eligibility rules for convicted criminals. I believe no one should be barred from running in an election based on their criminal record.

2-6- the section should be clear the initial voters list will be posted on one date and the revised list will be posted on another date, so the Returning Officer is not burdened with posting a new list each time a voter is added or removed. (Sure enough, someone will change the Returning Officer for not putting up a new list each time.)

- As long as re-posting is not mandatory, there are too many changes coming in within the 30 days to repost the Voters List.