

Improving the Electoral Process

Time for more accountability
and transparency, not less



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Introduction

The purpose of the Local Government Elections Task Force is to improve the electoral process for local government elections in B.C. This is timely.

At the local government level, the only time the public is able to directly influence and participate in their local government is during elections. This is the time when candidates outline their platforms and objectives. Therefore, citizens must be free to choose and assist the candidates that hold, at least at election time, the values they support. In that way, citizens have some say the future of the community where they live.

This Task Force has the opportunity to ensure citizens continue to have the tools they need to become further involved in their local community, and more importantly, ensure existing citizen power is not eroded.

This review also creates an excellent opportunity to take a leadership role in democratic reform at the municipal level. An issue not included in the Task Force's terms of reference is the way citizens' vote in local elections. This is an oversight requiring remedy.

In this report, the Canadian Taxpayers Federation (CTF) will recommend reforms designed to increase transparency and accountability in the local election process, which will help to increase transparency and accountability of municipal governments.

Task force members include three government and three Union of British Columbia Municipalities (UBCM) members. The UBCM is a lobby group that represents the interests of local governments and has very clear views on a number of the issues under discussion. As its views clearly diverge from those of the CTF and its supporters, I would encourage the remaining committee members to offset any efforts on the part of the UBCM to undermine the democratic process, divert power from citizens to municipal bureaucrats and politicians, and increase costs to taxpayers. Local government is supposed to represent citizens, not itself. Government is the servant, not the master, of the citizens it represents.

The UBCM position on: increasing the term of office from three years to four; that campaign contributions be made tax deductible; putting limits on campaign contributions, election campaign spending and foreign contributions all point to less accountability from municipal governments and an infringement on citizens' freedom of speech. Any move in these directions should be prevented.

Summary of Recommendations

Campaign Finance

1. No candidate be permitted to accept a campaign contribution until they are officially nominated as a candidate.
2. No candidate be permitted to accept a contribution after the seventh day prior to Election Day, and a full disclosure of all contributions greater than \$300 be publicly declared five days prior to Election Day.
3. Full public disclosure of all expenditures be submitted to the election officer or clerk within 90 days of the election.
4. All campaign surpluses be declared and held in trust for future election campaigns. If the candidate opts not to run for re-election, the surplus be donated to a charity.
5. All campaign contributions and expenditures be independently audited and that audit be submitted along with candidate disclosure forms to the election officer or clerk's office for public disclosure within 90 days of a municipal election.
6. All campaign assets and credits be disclosed and a fair-market value be established. If the value of the assets and credits puts a candidate into a surplus situation, those assets should be held in trust for use only during the next election or auctioned off with the proceeds held in trust.
7. No campaign finance contribution or expenditure limits; the current system must remain intact.

The business vote

1. Re-establish the business vote.

Public finance of local elections

1. No pork for local elections, the current system must be maintained.

The election cycle

1. The municipal term of office remain at three years.
2. Any change to the term of office be approved by provincial referendum.
3. Citizens recall legislation be introduced for the municipal level.

The voting system

1. Address how citizens vote and expand the choice from the current first-past-the-post system to proportional representation.

Campaign Finance - Disclosure

CTF Recommendations

1. No candidate be permitted to accept a campaign contribution until such time they are officially nominated as a candidate.
2. No candidate be permitted to accept a contribution after the seventh day prior to Election Day, and a full disclosure of all contributions greater than \$300 be publicly declared five days prior to Election Day.
3. Full public disclosure of all expenditures be submitted to the election officer or clerk within 90 days of the election.
4. All campaign surpluses be declared and held in trust for future election campaigns. If the candidate opts not to run for re-election, the surplus be donated to a charity.
5. All campaign contributions and expenditures be independently audited and that audit be submitted along with candidate disclosure forms to the election officer or clerk's office for public disclosure within 90 days of a municipal election.
6. All campaign assets and credits be disclosed and a fair-market value be established. If the value of the assets and credits puts a candidate into a surplus situation, those assets should be held in trust for use only upon next election or auctioned off with the proceeds being held in trust.

Current System

Under local government election campaign financing disclosure rules, all candidates and elector organizations are required to file disclosure statements with the local government within 120 days after voting day. This is too late. Voters must know who supported the candidate financially before they cast their vote. It is important to know who may be influencing a candidate *before* Election Day. An audit of the disclosure statement may happen after the election.

CTF position

The reasons for campaign finance disclosure are obvious: voters need to know who contributed to a candidate's campaign and in what amount in the interests of transparency and voter confidence.

To ensure transparency – full disclosure of who contributed to each candidate must be made available to the voters. Furthermore, this information should be made available *prior* to Election Day so voters have an opportunity to see who will seemingly have influence over each candidate, and have the opportunity to vote accordingly.

Voters know election campaigns cost a significant amount of money to run. Campaign donations are expected. Full disclosure of who has contributed to each candidate will ensure voters have the ability to hold their elected officials accountable and to have confidence in the decision they are going to make on Election Day.

When citizens have full disclosure of campaign contributions they not only have the ability to watch their elected officials for breaches of the public trust, but they can also choose to support only those candidates who they feel are likely to support a particular philosophy.

For example a small business owner might base her voting decision upon seeing that a candidate has accepted campaign contributions from other small business owners. Or conversely, a union member might base his voting decision upon seeing that a particular candidate has accepted campaign contributions from various public trade unions.

Elections BC makes all provincial disclosure statements available on the internet and provides a searchable website database of campaign contributors. Although elected municipal councilors currently leave their campaign contribution reports on their local election websites, the reports do not remain there for long. By extending Elections BC's mandate to maintain local election contribution data, transparency will be enhanced.

The present disclosure system is not achieving the right balance between the public interest in transparency and a reasonable administrative burden. Thus, the present system is not as transparent as it must be.

Transparency will ensure voter confidence.

Outcome-based rules, with the outcome focusing on transparency and voter confidence, will help balance disclosure with the administrative burden.

Campaign Finance - Contribution Limits

CTF Recommendations

1. No campaign finance contribution or expenditure limits; the current system should remain intact.
2. Reject the UBCM position.

Current System

The current campaign finance systems in British Columbia (for both provincial and local elections) do not impose limits on the amount that a donor may contribute and it is generally true that anyone can contribute. Additionally, there is no limit on campaign expenditures. This system must continue and be strengthened by better campaign finance disclosure, discussed in the previous section.

UBCM wants to: set limits on the annual amount of contributions that can be given by an individual or organization to an elector organization, campaign organizer, or an individual seeking elected office; limit the amount of money that may be spent annually by an elector organization, campaign organizer, or an individual seeking elected office during a general local election campaign; and disallow contributions to an elector organization, campaign organizer, or an individual seeking elected office, from sources outside of Canada.

CTF position

Contribution limits are an affront to two of the most basic freedoms in our society: freedom of speech and freedom of association. If we believe that voters should be informed, we ought to encourage, not restrict, campaign spending.

John J. Coleman of the University of Wisconsin found that campaign spending increases public knowledge of the candidates across all groups in the population. Less spending on campaigns are unlikely to increase public trust, involvement, or attention. Implicit or explicit spending limits reduce public knowledge during campaigns. Simply put: getting more money into campaigns benefits voters.

Restricting individual donations infringes on our freedom of speech. Exercising the right to speak usually costs money, especially if the speaker intends to reach a large audience. The right to speak necessarily includes the right to pay for the speech. Spending money is protected not because "money is speech" but because government limits on spending for speech restrict speech itself.

The answer to huge campaign expenditures is more speech, not less. The amount of money spent during election campaigns is just a symptom of a much bigger problem in

our society, one that goes well beyond the mandate of this Task Force. We have a big money problem because we have a big government problem. If government's ability to regulate and redistribute is restrained, big money, from either business or unions, has no reason to flow to candidate coffers. The solution to this problem is less government, not less spending.

Although some worry about the rich buying elections, pre-election disclosure of campaign financing as outlined in this submission would bring any nefarious efforts to the light of day – before the election and at no cost to taxpayers.

In addition, there is no evidence that elections can be bought or political power purchased in the marketplace. Just ask Ross Perot or Steve Forbes. Here in B.C., as we saw in the 2005 provincial election, even though unions gave heavily to the NDP, they still lost. The same holds at the municipal level in B.C. During the 2008 municipal election, Peter Ladner, the candidate that spent the most of any mayoralty candidate, \$244,073, lost. Meanwhile, Gwen O'Connell of Pitt Meadows the candidate who spent the least, \$319, won. It takes much more than money to win an election.

There are campaign contributions or expenditures that should be illegal, such as the misuse of a government office by favoring contributors looking for government contracts and services. Second, secret payoffs to a candidate —then spent on personal pleasures like a new car. But when a candidate fully discloses a donation and puts the money in a fund that can be used only for elections, the resulting transparency reduces the opportunity for corrupt behaviour.

Extending recall legislation to municipal politicians is another check on bad behaviour that will be discussed in more detail later in this submission.

Dependence on the people is the primary control on government. That dependence can only have meaning in elections with vigorous competition. By undermining competitive elections, campaign finance laws undermine democracy.

Lastly, campaign finance laws increase the very problem they were meant to reduce—corruption. Campaign finance reform movements distract from the real issue, the ultimate source of potential corruption—big government. Government today encourages corruption because it holds huge power over virtually every aspect of life. We shouldn't be surprised when special interests try to take advantage of that or to protect themselves from it.

Corporate vote - the business vote by another name.

CTF Recommendations

1. Re-establish the business vote.
2. Reject the UBCM position.

Current System

The corporate vote was eliminated in B.C. in 1993. Currently, there is no corporate or business vote.

UBCM supported the removal of the corporate vote, and resolutions brought forward by members to re-instate it have been left to flounder.

CTF position

Residents vote, but many business owners live outside the municipality in which their business is located. Having no vote, they have no say in the level of property taxes. Because there is no limit on the property tax ratio between residential and other property classes, the difference between residential and business property tax rates can be as high as five-to-one. This means business properties are taxed very heavily relative to residential properties.

High tax rates for businesses result not only in less transparency, but also in less accountable government. The reality is – if business owners have no vote, they have no say in the level of property taxes. This is a short-term strategy that may keep local politicians in office, but ultimately means fewer jobs and poor government spending decisions. The result is a wasteful use of resources. Business property taxes must reflect the true cost of service and not be a cash cow for spend-happy local politicians.

From Ontario to British Columbia, studies show that businesses receive less in city services than the property taxes they pay. Studies such as the 2006 MMK Consultants report show huge differences. Businesses in Vancouver pay \$2.50 for every \$1.00 of service they receive while city residents pay only \$0.50 for every \$1.00 of service they receive. Residents getting something for nothing creates a higher demand for services than would exist if residents absorbed the full-cost of services. The resulting overspending means even higher taxes in the future and an unsustainable spending spiral that is funded by higher and higher property taxes, paid primarily by business.

Businesses are becoming more mobile, but municipalities have been slow to understand the effects of discriminatory property taxation. High property taxes may affect the location decisions of new businesses and whether existing businesses will stay open or move to friendlier jurisdictions. Discriminatory business property taxes represent a

hidden tax to residents reflected in higher prices, less job creation and lower wages. Both federally and provincially, governments are lowering business taxes to create a better business climate. It's time municipalities did the same.

The positive, if unintended consequence of the return of the business vote and greater municipal accountability is if residents had to pay the true cost of the services they received, they would scrutinize new programs and project proposals more carefully. It would become more difficult for local governments to buy votes with new services for residents by sending the bill to the business community. The result would be a government that is more cost-effective, more accountable and more responsive to the real needs of the community as a whole.

Therefore, barring other remedies, the business vote should be brought back.

Public finance of local elections

CTF Recommendations

1. No pork for local elections, the current system must be maintained.
2. Reject the UBCM position.

Current System

Currently, British Columbia taxpayers do not in any way fund local government election campaigns, and this is how it should remain. Taxpayer-financed handouts are available at the provincial and federal levels, but that is a tax grab with unintended consequences, and should be eliminated, not extended to local politicians.

UBCM is in favour of making local election expenses tax deductible as per federal and provincial practice. UBCM endorsed resolutions in favour of making campaign contributions tax deductible. This is unsurprising, as UBCM is a lobby group for local government.

CTF position

The CTF recommends no political pork at the local level. Absolutely, under no circumstances, should tax dollars fund political parties or candidates. This committee must resist UBCM efforts to feed at the public trough. Taxpayer funding of local elections is unacceptable.

It appears the UBCM would try to stop all the 'perceived' but really non-existent problems with campaign finance by putting local politicians on the dole. Better campaign finance recommendations are discussed in this paper. As Canadians have already experienced at the federal level, welfare for politicians results in less democracy, not more.

One of the factors driving the feeding frenzy at the trough for federal politicians is the 2003 reform that prevented unions and corporations from donating, and limited individual donations to \$5,000, which was lowered by the Conservatives, to \$1,100. This places severe fundraising restrictions on parties and helps maintain the status quo.

According to a report from the *Fraser Institute*, both the Reform and New Democratic Parties may not have survived under the current system. When the Reform party made its election breakthrough in 1993, the party's ten largest donors (two individuals and eight corporations) gave a total of \$301,150 (see www.elections.ca). At \$1,100 per individual donation, and no corporation donations, the total donation would have been \$2,200, or less than 1 per cent of the original donation. Even the NDP, with only 7 per cent of the

vote in 1993, might have been squeezed out with no donations from corporations and trade unions.

Forced taxpayer donations to political parties create the same problem as forced union or corporate donations to political parties. Taxpayers, like union members or shareholders, have no say in how their funds are used. It's absurd that anyone should be forced to subsidize political parties, candidates or tactics they don't support. A particularly galling example is the case of taxpayer support of the Bloc Quebecois – a party that wants to break up the country yet taxpayers from coast-to-coast are forced to fund it. Politicians also use taxpayer dollars to fund political attack ads, something many Canadians disagree with. The elimination of taxpayer-funded election financing would go a long way in reuniting politicians with the values of their constituents.

Political pork causes problems. For example, federally, candidates are reimbursed 60 per cent of their election expenses and parties are also reimbursed 50 per cent of their election expenses. Additionally, parties are given a per-vote subsidy. As a result, some political parties are becoming more dependent on political welfare. According to a *Frontier Centre for Public Policy* report authored by former Canadian Taxpayers Federation director Mark Milke, since 2004, as the subsidy has gone up, party fundraising success has gone down. Ironically, the party dedicated to breaking up the country, the Bloc Quebecois is the most dependent on political pork.

Milke shows that between 2000 and 2008, the Bloc took \$31.8 million in taxpayer handouts compared to raising just \$5.7 million in voluntary individual donations, a ratio of 5.6 to 1. The Conservatives took \$97.7 million in taxpayer handouts while that party raised \$72.9 million from voluntary contributions, a ratio of 1.3 to 1. If the Bloc had not received a subsidy from the country it wants to destroy, it would not have been able to mount much of an advertising campaign.

Forced taxpayer donations have given \$290 million in handouts to politicians and their parties in Canada since 2003. Paradoxically, parties with falling support may linger under this system, but up and coming parties may never see the light of day.

So why should political party or candidate financing be any different than that of the Canadian Taxpayers Federation, for example, an organization that generates voluntary donations from more than 60,000 Canadians and takes no taxpayer subsidy or political tax credit?

A more germane question might be to ask whether election campaigns at any level should receive any taxpayer funding at all? As Canadians sit at home worrying about their jobs, should we be funding political propaganda?

Taxpayer-funded handouts to political parties alienate the public because politicians become ever more disconnected from their support base. Handouts support the status quo, reduce fundraising efforts and force people to fund parties whose views they may find

repugnant. More important, handouts to political parties take scarce tax dollars away from programs that taxpayers value, such as education and health.

Federal election financing reform may have started with good intentions, but the results have been less than stellar. Local government election candidates receive no handouts now, and should not in the future. It is better to have a system more in tune with the grassroots that gives a better deal for taxpayers.

What is needed are incentives for parties and candidates to keep in contact with their supporters – to ask for money, to be sure, but also to keep people informed.

Election cycle (term of office)

CTF Recommendations

1. The municipal term of office remain at three years.
2. Any change to the term of office be approved by provincial referendum.
3. Citizens recall legislation be introduced for the municipal level.
4. Reject the UBCM position.

Current system/UBCM Position

During the 1980s, UBCM lobbied successfully to increase the term of office from two years to three, starting with the 1990 municipal election. It comes as no surprise that it is currently lobbying to increase that term to four years. An association of municipal politicians selected by other municipal politicians supporting a move that only benefits municipal politicians by guaranteeing them an extra year of pay, benefits and unquestioned power comes as no surprise.

CTF position

A philosophy of local responsibility has continued to play a significant role in the province's municipal legislation to this day. Moving from three to four years will increase the power of local governments and diminish local accountability. It is important to recall at this point that a local government has no opposition party to keep it in line, therefore must to be held accountable to voters more often, not less.

Unquestionably it is more efficient for municipal politicians to spend less of their precious time asking the citizens they serve for their continued support. But is it really more efficient for voters? Are voters complaining that they have too much democracy right now? When's the last time anyone heard a B.C. voter say, "Jeez, do I really have to go and vote for Mayor again? But I just voted three years ago and I'm still tired from exercising my democratic right last time."

Some might argue that it is more efficient to have elections every four years to save money? But how much would actually be saved by moving to a four year term?

It's argued a four year term would give politicians more time to learn the ropes - how to spend more effectively? No thanks ...

It's also argued that a four year term would give politicians more opportunity to engage in long-term planning. With the current focus of municipal government to areas far beyond their core function, any incentive to plan further would only increase the size of government and the property tax burden on homeowners and business. Besides, it's laughable to suggest that three years is "short-term" while four years is "long-term."

Does extending the term of office serve or hinder the principles of transparency, efficiency and accountability? Absolutely.

If the term is increased, it will mean voters lose out as their local politicians become less accountable. It means less democracy at a time when citizens of British Columbia need more. And it means that politicians who may have lost the support of their citizens will hold the reins of power for even longer.

The only way this move to increase the term of office should ever have been approved was if it was (a) done in conjunction with giving citizens the right to recall their elected officials, and (b) approved in a referendum.

Even with perfect pre-election information through campaign disclosure rules discussed previously, taxpayers should have the right to remove underperforming politicians from office, especially the ones who don't follow through on their promises. Municipal recall legislation should be introduced to give the power back to the voters, and ensure politicians are always responsive to their true bosses, the taxpayers. For some, this could raise interest in the recall process, one that disqualifies elected officials once in office, and raise awareness of issues such as “initiative” to put forward issues for referenda. Currently there is some ability to undertake both under the provincial *Recall and Initiative Act*, but not locally.

Local elections suffer from low voter turnout - true, but recent referendum turnouts show this might be turning around. When voters have an issue to decide that is important to them, such as preventing local politicians from leaving future generations with a legacy of debt, they get out and vote.

In the summer of 2009, about 750 voters Dawson Creek said they wanted a referendum on the municipality's borrowing plans. That fall, almost 2,000 people came out to vote in the referendum, with 1,009 people voting no and 976 people voting yes. This is a city where only 1,351 voted for the current mayor. The City of Victoria also wanted to borrow big in 2009. A group fighting the city's borrowing plan had to get at least 6,342 people to say no, and they got 9,872. This time, the number of petitioners dwarfed the 7,706 who voted for the current mayor. There appears to be a movement at the grassroots level to bring municipal politicians under control.

The voting system

CTF Recommendation

1. Address how citizens vote and expand the choice from the current first-past-the-post system to proportional representation.

CTF position

An oversight in the terms of reference for the current Task Force is a question addressing the issue of how citizens vote. In 2004, Vancouver city council established an electoral reform commission under former BC Supreme Court Justice Thomas Berger to suggestion changes in the existing electoral system.

Berger said Vancouver should be able to adopt a voting system “that best meets the needs and expectations of its citizens, as these change over time.” He said voters might prefer a voting mode other than a variation on the first-past-the-post system, one in growing use globally. That mode is proportional representation.

Berger recommended Vancouver petition the province for changes to its charter to give citizens a right to decide how they want to be governed. In 2005, the City of Vancouver asked Premier's Campbell's government for this right. The city never received an answer to that request.

This task force has the opportunity to put in place the tools to address this issue.

Conclusion

The Local Elections Task Force has an excellent opportunity to take decisive action on the recommendations made in this submission. The B.C. government also has an excellent opportunity to take a leadership role in democratic reform.

Those individuals and groups who have a vested interest in the status quo may recoil from some of the recommendations made in this submission, but the consideration should not be on how this is going to affect current campaign contributions or municipal elected officials. The consideration must be focused on taxpayers and voters all across British Columbia.

The most essential question the Task Force needs to ask when deciding its final recommendations is: who are these changes going to benefit? Voters or elected officials?

The answer to the perceived problems with campaign finance is not more campaign finance regulations but the right regulations. There are not, nor should there be, limits on campaign contributions. If the perceived problem is one of buying influence, then the reason for influence buying - big government with too much money and power - needs to be addressed.

Pre-election disclosure of campaign contributions will allow voters to make informed decisions and increase their confidence in the entire electoral system.

Citizens recall legislation will empower citizens to take a more active role in local government while ensuring municipal politicians are responsive to voters and taxpayers. B.C. needs to take action now to enhance voter turn-out, increase voter confidence and ensure voter involvement continues between elections.

Voter confidence in B.C. municipal elections is in dire need of restoration and the only way this will truly happen is through greater transparency and voter empowerment. This submission provides innovative recommendations focused on achieving greater involvement of citizens in their local election process. It also provides an incentive for citizens to take a greater interest in the actions of their elected representatives.