

Election Readiness Update

Report of the Chief Electoral Officer

November 6, 2019



Message from the Chief Electoral Officer

In Elections Nova Scotia's (ENS) 2018-2019 Annual Report, I indicated that we were facing challenges with respect to securing funding to prepare for the next general election and legislative changes that were requested following the 2017 provincial general election. I further stated that if funding and legislative changes were not approved in the 2019-2020 fiscal year, I would be required to alter the current election readiness date of April 1, 2020. I committed to providing an update on our election readiness plans as we move forward.

This report summarizes our current situation. It highlights the impact a lack of funding and legislative uncertainty has on our ability to deliver our mandate. It also outlines the additional risks we face from the implementation of new electoral boundaries.

We are now more than halfway through the 2019-2020 fiscal year and a full two and a half years into the current government's mandate. Without funding to prepare for the next general election, we are unable to move ahead with many of our election readiness activities, in particular those that require paying for external services, infrastructure, and equipment.

I am moving our election readiness date from April 1, 2020 to April 1, 2021. Meeting this new election readiness deadline is dependent on receiving funding to prepare for the next general election over the next eighteen months. Any further setbacks will jeopardise our ability to fulfill our mandate within that timeframe.

Ideally, it takes eighteen months to be election ready. For clarity, ENS requires a minimum of one year with full election readiness funding to complete preparations for a general election. Compressing the election readiness schedule into this shorter timeframe requires staff to regularly work overtime to deliver the necessary activities. It also makes it harder for ENS to comply with government procurement policies and processes.

Background

ENS's current situation is unique given the independent nature of the agency, our legislated budget process, and the general election cycle. As one of three independent non-partisan agencies reporting to the House of Assembly and fully accountable to the public, our mandate is to prepare for and deliver fair and inclusive elections impartially and professionally.

Nova Scotia is the only province in Canada without a fixed election date. As the Chief Electoral Officer, I must anticipate the earliest date on which a provincial general election could be called and plan and budget accordingly. Given that the 40th provincial general election was held on May 30, 2017, the spring of 2022 is the latest possible time the 41st provincial general election could occur. Eight of the last eleven provincial governments were majorities where, on average, the Premier requested a writ of election prior to entering their fourth year of governing. In the current context, that could mean a writ of election prior to May 2021.

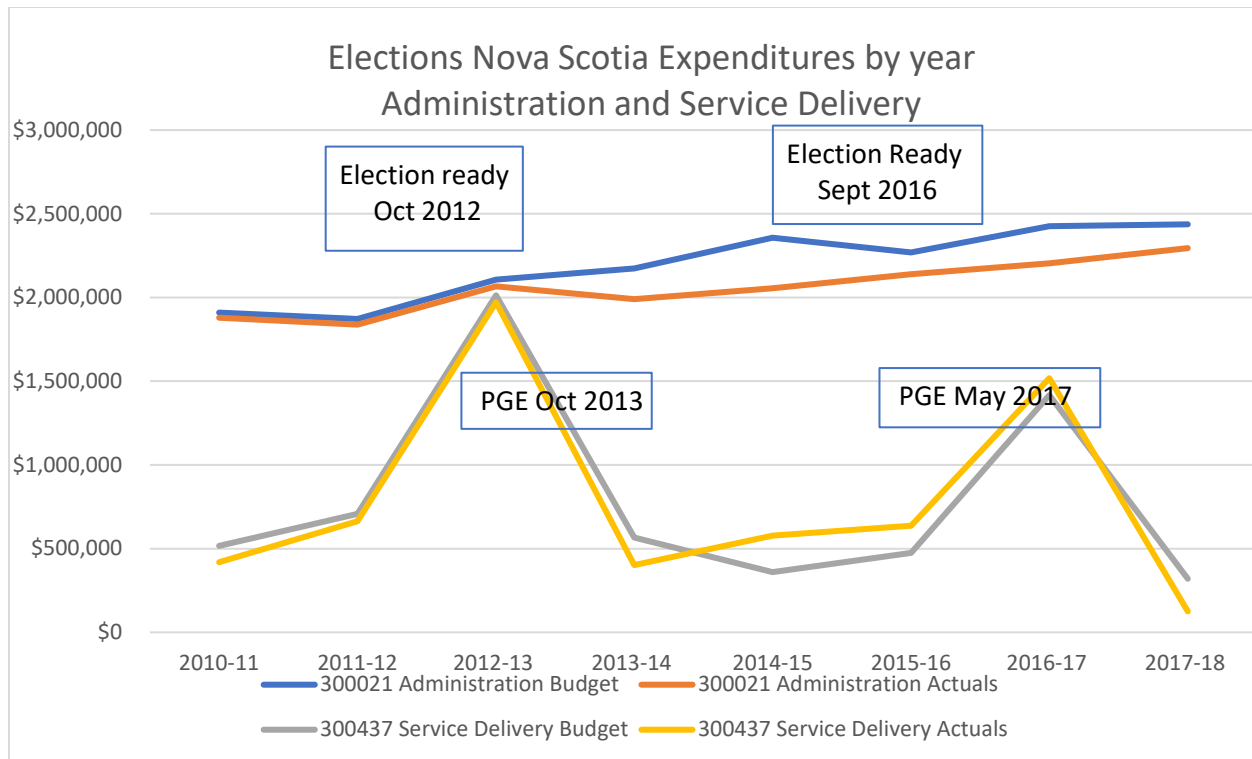
The ENS provincial general election cycle is made up of three parts:

- planning, preparation, and updating of election materials;
- implementation of plans (to enhance election management systems software, hire and train core returning office election staff, procure and prepare election equipment and technology, and identify returning offices and voting locations including validation of their accessibility and fit for use); and
- the delivery of the provincial general election once the writs are issued.

Elections readiness is the completion of part two, the implementation of plans. If an election is called before the plans are fully implemented, both the quality and the integrity of the election may be at risk. Once the implementation of plans is complete, ENS is fully prepared to deliver a provincial general election.

Our election readiness date of April 1, 2020 for the 41st provincial general election was set in advance of when majority governments have historically called elections in the Province. This date provided a high degree of certainty for being fully prepared in advance of the issuance of the writs of election.

Funding a provincial general election cycle is different than funding for most government departments. In order to implement election readiness plans and prepare for an election, I routinely request additional readiness funding over two years in a four-year election cycle. The chart below summarizes our historical budget and actual expenditures for the last two election cycles. This pattern is similar to election budgeting cycles in other provinces where funding ramps up during election readiness planning. The major difference is that other provinces have the benefit of a fixed election date making the budget cycle more predictable under majority governments.



Our 2019-2020 budget request included \$2,689K for election readiness costs and identified an additional requirement of \$605K in 2020-2021 (see Appendix A). This funding was over and above our core administrative, service delivery, and registered party funding.

Budget Process

In accordance with Section 19 of the *Elections Act*, I present our annual budget estimates to a special committee of the House of Assembly. The committee reviews and may alter the estimates and then recommends the budget to Treasury Board for inclusion in the government's overall budget plan. This part of the budget process is in-line with the majority of provinces except that nine of the fourteen election management bodies present to committees that have some form of statutory authority and accountability for election readiness costs. Appendix B provides a cross jurisdictional scan of election management bodies' budget processes in relation to statutory authority and accountability.

On January 22, 2019, I presented a budget that, in addition to the standard annual budget request, identified funding required to meet an election readiness date of April 1, 2020, to move to a new office location, and to administer one known by-election (Appendix A). The Special Committee to Review the Estimates of the Auditor General and the Chief Electoral Officer, unanimously recommended our budget to Treasury Board for approval without modification.

The final budget allocation in the 2019-2020 provincial budget included the standard annual budget request and none of the identified spending pressures for the known move, the known by-election, and funding needed to meet an election readiness date of April 1, 2020.

Over the course of last the few months, I requested and received an additional appropriation for the move and each of the four by-elections held in 2019. I also provided government with a number of options for election readiness spending over two fiscal years. At this time, additional funds have not been approved by Treasury Board.

Additional Challenges

Legislative Change

Following the 40th provincial general election, I made recommendations for legislative amendments. These changes, submitted for government's consideration in anticipation of the fall 2018 session of the Nova Scotia Legislature, have not been tabled in the House of Assembly. Until the legislative regime is clarified, our election readiness planning must continue on multiple paths.

Electoral District Redistribution

There are additional pressures this fiscal year with the implementation of new electoral district boundaries following recent changes to the *House of Assembly Act*. The increase of four electoral districts from the current 51 will come into effect for the 41st provincial general election. Recruiting and training of 55 returning officers and reviewing polling divisions and voting place catchment areas in 55 districts adds complexity to our readiness requirements.

Next Steps

Given our current lack of funding, I am moving our election readiness date from April 1, 2020 to April 1, 2021. This new election readiness date is predicated on ENS receiving funding to prepare for the next general election over the next eighteen months.

I ask that \$580K be provided as soon as possible in the current 2019-2020 fiscal year and the remaining \$2,714K be provided in the 2020-2021 fiscal year in the budget that I will bring forward to the special committee of the House.

In order to provide clarity in election readiness preparation, I further ask that any changes to the *Elections Act* contemplated by the government be tabled for consideration in the House of Assembly in the Spring 2020 session. This would reduce the risks associated with pursuing multiple readiness paths.

Conclusion

Moving forward, ENS will prepare and submit our budget for the 2020-2021 fiscal year. The current government enters its fifth year of governance as of May 2021. Any election readiness target date beyond April 1, 2021 would present additional risk and increase costs.

I will continue to assess and mitigate risks associated with our election readiness planning and commit to reporting to the members if for any reason I believe I cannot meet the April 1, 2021 target date.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Richard Temporale', written in a cursive style.

Richard Temporale
Chief Electoral Officer

APPENDIX A – 2019-2020 BUDGET ASK (January 2019)

ELECTIONS NOVA SCOTIA

Departmental Expenses by Object (\$ thousands)	2018-19 Estimate	2018-19 Forecast	2019-20 Estimate
Salary and Employee benefits	1,697	1,700	1,789
Operating Costs	1,797	1,971	4,896
Gross Expenses	3,494	3,671	6,685
Less: Chargeable to Other Departments	-	-	-
Total- Elections Nova Scotia	3,494	3,671	6,685
Ordinary recoveries	-	-	-
Funded Staff (# of FTEs)	18	18	18
Less: staff Funded by External Agencies	-	-	-
Total- Funded Staff	18	18	18

Supplementary Information

Programs and Services (\$ thousands)	2018-19 Estimate	2018-19 Forecast	2019-20 Estimate
Administration	2,490	2,490	2,505
Registered Party Funding	704	704	725
Service Delivery and Development	300	300	298
Election readiness			2,689
Cost of move and increase in lease cost			268
By-election related		177	200
	3,494	3,671	6,685

Three Year summary

Overview	2018-19	2019-20	2020-21
Administration	2,490	2,505	2,593
Lease increase cost			210
Registered Party Funding	704	725	740
Service Delivery			
Ongoing	300	298	300
Subtotal	<u>3,494</u>	<u>3,528</u>	<u>3,842</u>
Election readiness April 1 2020		2,689	605
Relocation and lease increase cost		268	
By-election costs (one only)	177	200	200
Subtotal	<u>177</u>	<u>3,157</u>	<u>805</u>
	<u>3,671</u>	<u>6,685</u>	<u>4,647</u>

APPENDIX B - Cross Jurisdictional Scan

Background

In all jurisdictions across Canada, expenditures typically increase in the two fiscal years before a provincial general election, as the election management bodies (EMBs) procure equipment, election materials, and hire and train core returning office election staff. In Nova Scotia, funding of election readiness costs is required earlier than other jurisdictions unless they are in a minority government situation, because ENS must accommodate the uncertainty of not knowing when the election will be called.

In most other Canadian provinces, the budget process for EMBs is independent of the government budget process. EMBs present their budget to special/select committees that represent their province's House of Assembly. These safeguards permit independent EMBs to deliver their mandate free from political interference by removing the ability of any one party to influence their budget. These budget processes are similar to those afforded to Nova Scotia's Special Committee to Review the Estimates of the Auditor General and the Chief Electoral Officer except their decisions on funding are binding on the government of the day.

Jurisdictional Review

The following jurisdictional review lays out the legislative authority and structure in other Canadian provinces specifically for the funding of costs related to the conduct of an election. The majority of jurisdictions in Canada have electoral legislation that provides statutory authority for these expenses. The rationale behind such broad statutory authorities is to recognize EMB's independence from governments and independence from the influence of political parties.

Nova Scotia is one of five jurisdictions in Canada whose legislation does not include some form of statutory authority for election readiness costs. The other four are Newfoundland, Alberta, PEI, and the Northwest Territories. The PEI *Elections Act* does not include explicit references to costs being paid from their consolidated revenue funds, the Tariff of Fees and Regulations states that the Chief Electoral Officer "is authorized to engage such staff and incur such expenses as, in his or her opinion, may be required to perform the duties of his or her office".

The remaining provincial and territorial jurisdictions, as well as the federal electoral legislation include statutory authority for some level of costs related to election readiness to be paid out of that jurisdiction's consolidated or general revenue fund.

The legislation in Canada, New Brunswick, Yukon, Nunavut, British Columbia, Quebec, and Manitoba, includes broad language requiring costs related to the conduct of elections to be paid by that jurisdiction's consolidated revenue fund:

- In a federal election, the statutory authority covers all costs related to preparing and conducting electoral events.¹
- In New Brunswick, compensation for returning officers and other persons employed with respect to an election and all consequent expenses are paid from the consolidated revenue fund.²
- In Yukon, the fees, costs, allowances and expenses paid respecting elections are paid out of the consolidated revenue fund.³
- In Nunavut, the official fees and expenses resulting from preparing and conducting an election is required to be paid from the consolidated revenue fund.⁴
- In British Columbia, all necessary expenses required for the administration of the BC *Election Act* or required by the Chief Electoral Officer must be paid from the consolidated revenue fund.⁵
- In Quebec, the sums required for the administration of the *Act* and for carrying out responsibilities assigned to the Chief Electoral Officer respecting elections are taken from the consolidated revenue fund.
- In Manitoba, there is statutory authority for remuneration for election officials and other expenses required for an election to be paid from the consolidated fund.⁶

The language in the Ontario and Saskatchewan is not as broad as the above jurisdictions, however there is statutory authority for some level of election readiness costs.

- In Ontario, the Chief Electoral Officer submits an annual budget to the Board of Internal Economy, including an estimated general election costs in a general election year. The Board of Internal Economy does not approve the election related budget, and it goes to them for informational purposes only. There is explicit statutory authority fees and expenses for election officers, returning officers and any person providing services under their Act.⁷
- In Saskatchewan, the Chief Electoral Officer submits an annual budget to the Board of Internal Economy. The Board has the authority within legislation to alter the budget but there is no vote on the budget by the Board or the House Services Committee which also reviews the budget. While the salary of the Chief Electoral Officer, the compensation for all election officers and all reimbursements to parties/candidates are explicitly statutory in nature, recent practice has treated the entire budget as statutory and no vote is held.

¹ Canada Elections Act, s. 553

² New Brunswick Elections Act, s. 123(1)

³ Yukon Elections Act, s. 34(1)

⁴ Nunavut Elections Act, s. 222

⁵ BC Election Act, s. 11(1)

⁶ Manitoba Elections Act, s. 201

⁷ Ontario Elections Act, s. 112 and 113.