

2022

Recommendations for Legislative Change

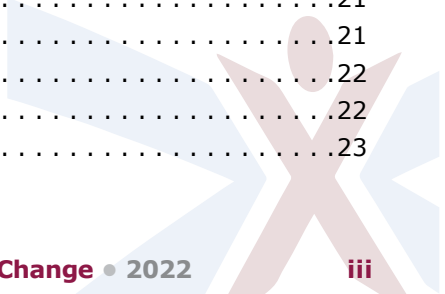
41st Provincial General Election
August 17, 2021

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Abbreviations and Terms

ARO – Assistant returning officer

Atlantica – Atlantica Party Association of Nova Scotia

CEO – Chief Electoral Officer

EC – Election Commission

Elector – Someone who is eligible to vote. To be an elector in Nova Scotia elections, you must be 18 years or older as of election day, a Canadian citizen, and have resided in Nova Scotia for six months or more prior to the date of the writ. In this report the terms elector and voter are used interchangeably.

ENS – Elections Nova Scotia

Green Party – Green Party of Nova Scotia

Liberal Party – Nova Scotia Liberal Party

NDP – Nova Scotia New Democratic Party

OA – Official agent

PC Party – Progressive Conservative Association of Nova Scotia

PGE – Provincial general election

PO – Presiding officer

RA – Revision assistant

RO – Returning officer

VIC – Voter Information Card

Voter – An elector who has voted. In this report the term voter is used interchangeably with elector.

WIB – Write-in ballot



Summary

Volume I, Statement of Votes & Statistics, published in January 2022 provided a detailed overview of the 41st PGE. That report is available on the ENS website (www.electionsnovascotia.ca). The following is a summary of the election and its outcome.

On July 17, 2021, pursuant to an Order of the Lieutenant Governor in Council, writs of election were issued under the *Elections Act* by the CEO, for the 55 electoral districts in Nova Scotia ordering that a PGE be held on Tuesday, August 17, 2021.

On August 19, at the Official Addition, the Progressive Conservative Association of Nova Scotia (PC Party) was determined to have won the most electoral districts. The following chart indicates the number of electoral districts confirmed with the return of the writs of election for each registered political party and independent candidates:

Registered Political Parties and independent candidates	Number of Electoral Districts
Atlantica Party Association of Nova Scotia (Atlantica)	0
Green Party of Nova Scotia (Green Party)	0
Nova Scotia Liberal Party (Liberal Party)	17
Nova Scotia New Democratic Party (NDP)	6
Progressive Conservative Association of Nova Scotia (PC Party)	31
Independent Candidates	1

One recount was requested and held for the electoral district of Glace Bay-Dominion at the Sydney Justice Centre on Monday, August 30, 2021, by presiding Supreme Court Justice Jamie S. Campbell. The results of the recount confirmed Mr. John White, PC Party as the winning candidate.

Overview

The recommendations for legislative change presented in this report have been developed based on the post-election review and feedback during the delivery of the 41st PGE. The intent of these recommendations is to improve Nova Scotia's electoral process to achieve the highest quality election administered in our province.

As part of the development of these recommendations, ENS consulted with the EC and this report indicates which recommendations received the unanimous support of the Commission members and those that did not.

The 20 recommendations are grouped into six themes:

- Independence
- Fixed-date Elections
- Clarity
- Transparency
- Alignment
- Electoral Finance.

Each recommendation presented includes a preamble as to why the CEO feels it's consideration by the members of the House of Assembly is necessary at this time. The urgency to proceed is based on the fact that this Government will be into the second year of its mandate when the next sitting of the legislature commences in the fall of 2022, and ENS needs a minimum of 12–18 months before the issuance of a writ to update procedures, manuals and training modules and be fully election ready.



Recommendations for Legislative Change

Independence

As outlined in the CEO message, ENS's mandate is to be an independent non-partisan agency. Its ability to operate arms-length from Government without interference is fundamental to the integrity of our electoral processes. Therefore, given recent history, the CEO believes strongly that it is time to recommend legislative changes that would strengthen ENS's independence and protect its ability to operate outside the purview of Executive Council in favour of reporting to and taking direction directly from all members of the House of Assembly on matters pertaining to provincial elections.

There are four recommendations related to ENS's authority to operate as an independent non-partisan agency.

Annual Estimates

As an independent agency, the *Elections Act* currently requires ENS to present its annual budget estimates to a special committee of the House of Assembly. This special committee consisting of representation from the political parties represented in the House of Assembly reviews, votes on, and recommends the agency's estimates to Finance and Treasury Board for final approval and inclusion in the Government's annual budget. However, Finance and Treasury Board is neither obligated to follow the advice nor the recommendations of this special committee.

In recent years the estimates reviewed and recommended by the special committee have been altered by Finance and Treasury Board before the finalization of the provincial budget without further consultation with either the special committee or ENS. In 2019-2020, the removal of election readiness funding without explanation forced ENS to abandon much of its planned election readiness program for that year and to postpone its election

readiness target date a full year from when ENS felt it was prudent based on elections called in the province over the past 20 years.

As an independent agency, it is important for funding not only to remain non-partisan but also predictable in order to meet election readiness targets. To ensure this, the CEO is recommending changes to the *Elections Act* to provide authority to the special committee to approve ENS's annual estimates, adding authority that precludes the need to recommend them to the Finance and Treasury Board. Rather the special committee's recommendation should be put before the members of the Assembly for an open and transparent debate in the House of Assembly, followed by a vote on the amount to be included in the budget estimates. This is not a precedent setting occurrence in Canada. In fact, eight of the thirteen other jurisdictions have similar independent budgetary processes for their electoral agency, and two more are partially regulated this way. Those being Yukon, Nunavut, British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Prince Edward Island and Canada.

ENS takes its financial reporting to the public seriously. For accountability and transparency purposes regarding its use of public funds, ENS includes an independently audited financial statement in each of its annual reports.

Recommendation 1: *Modify language referring to the annual estimates in the Act so the special committee's recommendation of ENS's estimates to Treasury Board is not optional for inclusion with the provincial budget. The governing party would have the same ability as the opposition parties to review, to debate and to propose a vote to alter this budget in the House of Assembly if it so chooses.*

This recommendation does not have the unanimous support of the members of the EC.



Warrant to Pay for By-elections

Under the current statutes, the costs related to the administration of a PGE are paid for by Government through a warrant submitted by the CEO to Finance and Treasury Board. This is a straightforward procedure that works well both from the Government's perspective and that of ENS.

By comparison the process currently followed for paying for the delivery of by-elections is quite different.

In the decade between June 2010 and March 2020, ENS has administered 14 by-elections. In its annual budget submission, ENS has routinely identified by-elections as an in-year plausible pressure based on this history. Finance and Treasury Board routinely removes the anticipated costs of a by-election out of its final budget allocation, even in years where a vacancy exists, and legislation requires the Government to hold a by-election within a six-month period. It is understandable why Finance staff may recommend not providing funds on the speculation a by-election may occur, but this creates funding uncertainty for ENS.

A reasonable solution would be to modify language in the *Finance Act* to permit the Government to cover the spending by ENS for the administration of a PGE to include similar powers for the costs incurred during by-elections.

Recommendation 2: *Modify language in the Finance Act that permits the Government to cover the spending by ENS for the administration of a general election to include similar powers for the costs incurred during by-elections.*

This recommendation has the unanimous support of the members of the EC.



Legislative Change Recommendation Process

Currently, legislative change recommendations by the CEO are considered by Government through the Minister of Justice as the Minister responsible for the *Elections Act*. Although registered political parties are consulted by ENS through the EC during the development of recommendations, the process to bring them to the House of Assembly through the Department of Justice could be perceived as partisan and inappropriate. Consider the scenario where, after seeking the advice of the members of the EC on a given issue, the Minister of Justice or Executive Council, decided not to act on the CEO's recommendation. The CEO could not bring an amendment to the floor of the Legislature for debate. In some cases, recommendations are based on a Supreme Court ruling in another Canadian jurisdiction that clearly infers a change should be made in the Nova Scotia election context. The Government of the day may have its reasons for not wanting to proceed with the recommended change, but without full disclosure and proper debate among the members of the Assembly, the stakeholders in the electoral process, would have little understanding of the issues at hand or the reasons for not proceeding.

Allowing ENS to present legislative recommendations directly to a special committee of the House of Assembly instead of the Department of Justice would ensure the process is non-partisan, transparent and respectful of ENS's independent status. Adding such a provision(s) would increase the independence of the office of the CEO by allowing an all-party committee to consider the unabridged legislative recommendations to be discussed publicly and voted on in the Legislature, rather than as filtered by a Minister of the governing party.

Recommendation 3: *Add provisions so the Chief Electoral Officer may present annually to a committee of the House of Assembly, designated on recommendation for legislative changes.*

This recommendation does not have the unanimous support of the members of the EC.

Chief Electoral Officer Hiring Process

The *Elections Act* states that the CEO is an Officer of the House of Assembly and that their office is an office of the House. The CEO is solely accountable to the legislative branch of Government and must be seen to be independent from the executive branch of Government for two reasons:

- To protect the constitutional right to vote in a provincial election through the administration of the *Elections Act*
- To maintain the separation of power between the legislative branch and the executive branch, i.e., Government

Given the need for the CEO to be non-partisan and independent from the executive branch of Government, it would be prudent to formalize a nonpartisan search process that operates at arms-length from Executive Council. The CEO favours the process used when he was hired in 2012. A panel made up of current EC members and a Public Service Commission (PSC) representative whose sole responsibility is to ensure the hiring process is open, fair, and follows the same steps employed by the public service in other senior competitions. This process would ensure that the appointee meets the job competencies and has the endorsement of the three registered political parties with representation in the House of Assembly, thus ensuring they are beyond partisan reproach.

This type of legislated hiring process for a CEO is more consistent with most of the 14 electoral jurisdictions in Canada. 10 Canadian jurisdictions have a fixed process for appointing a new CEO in legislation. Only Saskatchewan, Newfoundland and Labrador, Elections Canada, and Nova Scotia currently do not have these types of provisions. The approach that is recommended is in line with the legislative requirements of our provincial neighbour, New Brunswick, where the process for choosing the CEO is embodied in their *Elections Act*. Adopting this recommendation would bring Nova Scotia in line with the majority of Canadian provinces' best practices.

Recommendation 4: Add provisions to ensure that before a CEO appointment can be made under subsection 7(1), a selection committee shall be formed.

This recommendation does not have the unanimous support of the members of the EC.

Fixed-Date Elections

With Bill 1 receiving Royal Assent on November 5, 2021, Nova Scotia became the last of 14 jurisdictions in Canada to provide certainty to the province's election cycle for the general public, the registered parties, the third parties with interests in current issues, and all potential candidates considering a run for a seat in the House of Assembly.

While the introduction of a fixed-date election cycle provides more certainty around when the writs will be issued, on its own it creates a domino effect on other aspects of the event that should be addressed before the next PGE to enhance the electoral process for all stakeholders.

The following recommendations are related to fixed-date elections.

Defined Pre-writ Campaign Period

Extending the campaign period to include 120 days prior to election day would provide greater transparency for registered political parties and candidate spending. It would also introduce a further measure of control and transparency for third-party advertisers in the lead-up to a fixed-date election. Without extending the campaign period, the amount third parties could spend for or against an election issue, candidate or registered party before the writs are issued is unlimited potentially unfairly influencing the voting public's perception. The same concern exists for other stakeholders including potential candidates in the approaching election. Four other Canadian jurisdictions have defined pre-writ campaign periods prior to the writs of election being issued. Elections Ontario has a defined campaign period that applies to third parties but not registered political parties or candidates.



Recommendation 5: *Add provisions to the Elections Act to define the pre-writ campaign for fixed-date elections only as follows:*

- *In the case of a general election held in accordance with Section 29A(2), the period commencing 120 days before election day, in the year in which the election is held and ending with the issuance of a writ.*
- *Revise Section 278(1) to capture the pre-writ Campaign Period.*

This recommendation has the unanimous support of the members of the EC.

Variable Election Period

Maintaining a variable election period (30 to 46 days) with fixed-date election legislation would continue a level of uncertainty with regard to when the writ of election might be issued. If the goal of fixed-date election legislation is certainty and transparency, then the amount of variability must be reduced or removed. The proposed changes herein would have the election period have a seven-day variability.

Both Elections New Brunswick and Elections Ontario have fixed election periods, of 33 and 30 days respectively. Four other provinces have fixed election periods, but not fixed writ dates, which allows them to have some variability. Nova Scotia currently has the highest variability in our election period, across all Canadian jurisdictions, at 16 days of variability.

If changes are made to Section 29 to reduce the variability and set the election period to between 30 and 37 days, then corresponding adjustments must be made in Section 74(2)(b) to adjust the timeframe.

In terms of the 42nd General Election what is proposed here would mean the writ would be issued sometime the week of June 8th.



Recommendation 6: *Make the following amendments to the Elections Act to reduce the variability of the election period to a maximum of seven days:*

- *Amend Section 29(a) and (b) to set the election period to between 30-37 days in duration.*
- *Amend Section 74(2)(b) to adjust the timeframe for the election period.*

This recommendation has the unanimous support of the members of the EC.



Clarity

As the electoral process evolves it is important to ensure there is clarity regarding regulations and processes. The recommendations for legislative changes in this section are intended to bring clarity given recent changes to the electoral process in Nova Scotia.

Electoral Boundary Changes

The CEO is recommending amendments to the *House of Assembly Act* regarding electoral boundary changes to enhance clarity. One provides further authority to the CEO to address issues in the future and the other is simply housekeeping to clean up an error.

To address the concerns raised by voters during the 41st PGE regarding the placement of electoral boundaries by the 2019 Nova Scotia Boundaries Commission, a change to the *House of Assembly Act* is recommended to amend the existing authority of the CEO to address boundary issues.

The *House of Assembly Act* allows for the CEO to make recommendations for minor changes to electoral district boundaries, however the legislation constrains the recommendation to not alter the number of voters in any electoral district by more than three hundred.

The first amendment to the *House of Assembly Act* related to electoral boundary changes is to allow the CEO to have discretion to recommend to the members of the House of Assembly to change the number of voters, while not exceeding or falling below the threshold set for total number of voters in an electoral district within the Electoral Boundaries Commissions Report.

The second amendment to the *House of Assembly Act* related to electoral boundary changes is a housekeeping clean up to correct an error made when legislative changes were made in 2019. When legislative changes were made to enact the new electoral boundaries in 2019, ENS recommended that Government move away from the previous metes and bounds descriptions of electoral boundaries in favour of digital boundary descriptions. This recommendation was accepted and implemented in the *House of Assembly Act*, but a Subsection related to metes and bounds remained in error. ENS recommends repealing this Subsection,

since legislated metes and bounds are no longer defined within the *House of Assembly Act*. The approval of a report the CEO submits to the House of Assembly as per Subsection 5A(1) permits the alteration to a boundary.

Recommendation 7: *To make the following amendments to the House of Assembly Act to clarify issues regarding the CEO changing electoral boundaries:*

- *In Section 5A(2) of the House of Assembly Act, remove the constraint of a maximum 300 electors and allow for greater CEO discretion.*
- *Remove Section 7(2) the requirement to amend the House of Assembly Act when electoral boundaries change due to CEO recommended changes.*

This recommendation has the unanimous support of the members of the EC.

Election Commission Chair

Currently the position of Chair of the EC is a five-year appointment term. Within a given election cycle the timing of this appointment period means an in-coming Government may not have an opportunity to consider the appointment of a new EC Chair.

The CEO is recommending that the term for the Chair of the EC be changed to account for a change in Government. This recommended change aligns to the fixed-date election legislation with a half year extension to allow Government, following an election, time to decide to reappoint or select a new Chair.

Recommendation 8: *Change the term for the Chair of the EC as stated in Section 356(3) to account for a change in Government.*

This recommendation has the unanimous support of the members of the EC.



Transparency

Transparency is important to the integrity of the electoral process. Although many recommendations related to independence, fixed-date elections, as well as efficiency and clarity also provide a greater level of accountability, the recommendations presented in this section speak specifically to transparency.

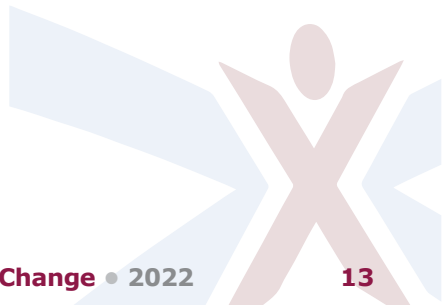
Voting Prior to Close of Nominations

The number of people choosing to vote before the close of nominations has been growing ever since the right to vote prior to the close of nominations was first introduced in 2001.

Following the 40th Provincial General Election, the CEO recommended a legislative change to not allow voting prior to the close of nominations. He offered the recommendation despite not having any support from the members of the Election Commission. This recommendation did not make it into Bill 225 when it was introduced in 2020.

It is important to understand why this recommendation was made despite the lack of endorsement of the EC members and the registered parties. As an election administrator, ENS could see the obvious advantages been given to incumbents choosing to run again as well as candidates nominated and endorsed by a registered party early in the writ period.

In 2017 and 2021, 3,378 and 10,035 people respectively voted before the close of nominations. The latter increase was largely the result of the ENS media campaign suggesting voters use this method of voting to enhance their personal safety during the COVID-19 pandemic. This notwithstanding, there was a lack of transparency for those 10,035 voters who chose to vote before the close of nominations in 2021, because they did not have the full knowledge of all the candidates to choose from. The final lists of candidates could not be provided to them until nominations closed.



ENS is submitting this same legislative change recommendation again, because the reasons for requesting this change were reconfirmed during the 41st PGE. It is important to point out that this recommendation does not enjoy the unanimously supported of the members of the EC.

In addition to this recommendation, and to strengthen the commitment to equity and transparency, ENS is recommending removing the names of the registered political parties from the write-in ballot. Nova Scotia is the only jurisdiction in Canada that provides this information on the WIB ballot. Should the members choose to legislate not allow voting prior to the close of nominations, there is still a need to use the write-in ballot for hospital voting and as the contingency ballot should technical failures occur during early voting. We are also recommending the CEO have discretionary authority to mail write-in ballots prior to the close of nominations, in cases where an elector's geographic location would likely impede their vote being returned in time to count on election night.

If the recommendation to not allow voting until after the close of nominations does not proceed, it is our belief that the need to remove the party names from the WIB increases substantially. Both for equity and fairness for those running for office and for the transparency and clarity of those choosing to vote early, before the close of nominations.

It is worth noting that in the 2017 court decision by Justice Gillian D. Butler in Newfoundland in the case of Mitchell v. Jackman, Justice Butler opined, not allowing voting prior to the close of nominations is more equitable to all candidates and is more transparent to voters.

Lastly, for full disclosure, of the fourteen jurisdictions across Canada, only Newfoundland and the Northwest Territories do not allow voting prior to the close of nominations. That fact may make it a widely accepted practice but not necessarily an equitable or right practice.



Recommendation 9: *Make amendments to eliminate potential for voting prior to the close of nominations and to remove the list of registered political parties on the WIB:*

- *Amend Section 139A to not allow voting prior to the close of nominations.*
- *Amend Section 140(2) to not allow voting at a returning office continuous poll until after the close of nominations.*
- *Amend Section 103(1) so write-in ballot kits would not be issued until after the close of nominations.*
- *Amend Sections 103(2) and 107(3) to remove the names of the registered political parties from the WIB.*

The first 3 amendments (Sections 139A, 140(2), and 103(1) in this recommendation do not have the unanimous support of the members of the EC. The amendments to Sections 103(2) and 107(3) were not presented to the EC due to time constraints.

Candidate Registration

This amendment is necessary to avoid the situation when a candidate submits their registration form at the same time as their nomination papers, since acceptance of the nomination is also deemed to be their registration. The intent of registration is for transparency of candidate's activity between elections.

Prospective candidates can register with ENS head office at any time prior to an electoral event to permit them to begin raising and spending money between elections. Once an election is called, all candidates including those who were already registered must submit their official nomination form to the returning office to have their name appear on the ballot. If a candidate was not registered before the writ, then the candidate is deemed to be registered on the date the nomination was accepted by the RO.

In the 41st PGE with a non-fixed-date election, candidates who were not registered before the writ submitted their registration and nomination forms at the same time, which was unnecessary. It also caused confusion since the registration form is approved, as specified in legislation, by the CEO and the nomination form is approved by the RO in the electoral district.

The CEO is recommending that Section 203(2) be changed to define the end of the period for the registration process for candidates.

Recommendation 10: *Change Section 203(2) to define the registration period as ending once the writ of election has been issued for the district in which a candidate intends to run. This will eliminate the duplication and confusion which has resulted when candidates submit their registration form at the same time as their nomination papers after the writ was issued.*

This recommendation has the unanimous support of the members of the EC.

Returning Officer Residency Requirement

RO appointments have a legislative requirement for the RO to reside in the electoral district in which they administer the election.

Meeting the residency requirement for ROs continues to be excessively challenging in terms of recruitment. Although there is provision for the CEO to appoint an acting RO for outside the district, no long-term appointment can be made. During the 41st PGE there were 12 ROs appointed in “acting” positions from out of district.

The residency requirement for ROs is inconsistent with requirements for candidates. Candidates do not have to reside in the electoral district in which they are running, and the CEO feels this flexibility should be extended to the RO role.

Recommendation 11: *Remove Section 22(6) (b), which requires ROs to reside in the electoral district in which they were appointed.*

This recommendation has the unanimous support of the members of the EC.



Write-in Ballot Changes

The following recommendations support a change to allow candidate ballots to replace WIBs following the close of nominations. This change would enhance transparency for voters to allow them to know the names of the nominated candidates in their electoral district for which they can cast their vote.

These changes are being recommended following the 41st PGE because ENS received multiple questions and comments from candidates and their representatives as well as registered parties about the continued use of WIBs after the candidate had been nominated. They argued that it unnecessarily caused voter confusion and could possibly lead to rejected ballots when some or all candidate names were known.

The CEO feels the changes recommended in this section would mitigate most of the concerns raised. As well, keeping the references in the Act more generic by removing references to WIBs specifically, where reasonable provides ENS more latitude in future as options for voting change.

Recommendation 12: *Make the following amendments to allow candidate ballots to replace write-in ballots following the close of nominations and remove specific requirement for a WIB where reasonable.*

- *Amend Sections 101(2) to (4), 101(14), 101(15)(e), 102(1) and (3), and 103(2) to (4)*
- *Change the titles of Section 105, 107, and 108*
- *Remove references to WIB in Sections 105(1)(a)(b), 105(1A), 105A(a)(b)(c), 107(1A) to (g), 107(1B) to (1D), 107(2), 108(1)*
- *Clarify that Section 107(3) to (5) is dealing with rejecting a WIB*

This recommendation has the unanimous support of the members of the EC.



Alignment

During an election many discrepancies or inconsistencies are noted within the electoral practices and procedures. The recommendations for legislative changes in this section are mainly housekeeping matters that need to be addressed to improve the legislative alignment with existing internal procedures in Nova Scotia.

Residential Centre Polling Divisions

The *Elections Act* allows the CEO to establish a separate polling division for a residential centre in which ten or more voters reside. The current practice is for mobile polls to be held at residential centres with 40 or more voters and to serve all others by WIB team. The removal of a number of voters will allow for more flexibility and the efficient use of election workers. The CEO is recommending this change to ensure alignment between the legislation and existing practice.

Recommendation 13: *In Section 35(3) remove the reference to the number of electors.*

This recommendation has the unanimous support of the members of the EC.

Returning Office Continuous Poll

A returning office continuous poll rarely has fewer than 15 votes. If a merger is required for a returning office continuous poll because it has fewer than 15 votes, then the merge should be with the WIB poll instead of with the ballots of an election day poll, as currently prescribed within the *Elections Act*.

This amendment is required to set the procedure in the *Elections Act* to be in line with the current counting process and to enable the merger of digital and paper eBallots and give the CEO more discretion in handling low votes from a returning office continuous poll. This will preserve the turnout election day polls report with known number of voters on the official list. This is considered an administrative correction.

Recommendation 14: Amend Section 143(2) to allow for CEO discretion when merging low votes from a returning office continuous poll.

This recommendation has the unanimous support of the members of the EC.

Administrative Corrections

Two administrative corrections are required to update the *Elections Act*.

An update is needed to correct reference to the position of Election Clerk within the *Elections Act*. The term 'Election Clerk' was replaced by Assistant Returning Officer (ARO) by the amendments to the *Elections Act* made in Chapter 17 of the Acts of 2015, which came into effect by Royal Assent on May 11, 2015.

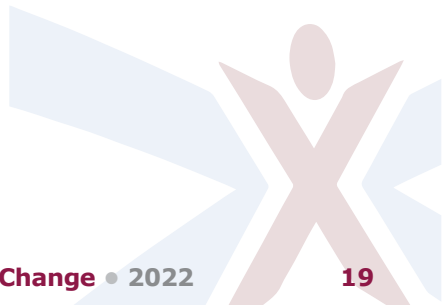
The second correction is to Section 303 of the *Elections Act* because it only references advance and election day polls, which appears to be an oversight. It should also account for the returning office continuous polls as well as any community polls held. The CEO is recommending that this section be updated to include the returning office continuous polls and community polls.

These two amendments are considered administrative corrections.

Recommendation 15: Make the following administrative corrections to the *Elections Act*:

- Update Section 350(1) (b) to replace the term 'Election Clerk' with 'Assistant Returning Officer'.
- Update the language in Section 303 to include continuous and community polls.

This recommendation has the unanimous support of the members of the EC.



Offences

While reviewing the *Elections Act* for potential updates following the 41st PGE, it was determined that the legal provisions within the offences section needed to be strengthened.

The CEO feels the following updates to Part IV of the *Elections Act* are needed to address current gaps and weaknesses. This is considered an administrative update.

Recommendation 16: *Update Part IV of the Elections Act to include offences using new technology, electoral officers, material and equipment as follows:*

- *Add offences for both the write-in and internet voting polls.*
- *Amend Section 335 to include offenses respecting election equipment, materials and ballots.*
- *Add new clauses in Section 336 and 337 related to the applications of a personal information number.*
- *Add a new section related to offences by a systems election officer.*

This recommendation has the unanimous support of the members of the EC.



Electoral Finance

The recommendations for legislative change presented in this section pertain to electoral finance practices. Further recommendations may be made in the final post-election report, Volume III, Financial Information & Statistics, which will be published later this year. Volume III will provide financial information on election expenses, candidate reimbursement, election administration costs and financial statistics.

Nomination Deposit

Following the 40th PGE in 2017, the CEO recommended the candidate nomination deposit no longer be required for fairness. This recommendation was made following a court decision in the province of Alberta: *Szuchewycz v Canada* (Attorney General), 2017 ABQB 645, in which the Court held that the provision related to the nomination deposit created a disadvantage on some prospective candidates that was limiting and unconstitutional.

This recommendation was not included in the legislative changes introduced in Bill 225 and proclaimed in May of 2021. It is also noted that the CEO waived the nomination deposit for by-elections held between the 40th and 41st PGEs. All candidates are eligible to have their deposit returned under the current legislation.

The CEO feels it is prudent to recommend this change again given the court ruling and the fact that some other jurisdictions in Canada have also taken steps to eliminate nomination deposits for candidates.

Recommendation 17: *For greater fairness a candidate deposit would no longer be required by making the following amendments:*

- *Amend clause 65(2)(b) to no longer require a prospective candidate to submit a two-hundred-dollar nomination deposit by deleting it in its entirety.*
- *Amend Subsections 66(2)(3), 67(1)(2)(3)(4), 69(1), 71, and 72 (3) to delete reference to nomination deposit.*
- *Amend clause 166(i)(xi) by deleting it in its entirety*

This recommendation has the unanimous support of the members of the EC.

Transfers

This recommendation will clarify the rules regarding transfers of service, money or property among related entities to cover the situation when a candidate is running for office and would like to transfer advertising materials from a previous election when running for a different registered party.

In the 41st PGE, ENS encountered instances where candidates who had run in previous elections reused campaign signs that no longer reflected their registered party affiliation. This situation illustrated the need for clarity regarding transfers among related entities. Specifically, to cover the situation when a candidate is running for office and would like to transfer advertising materials from a previous election when running for a different registered party or as an independent.

Recommendation 18: Update Sections 213 and 214 to clarify application of rules regarding transfers between related entities.

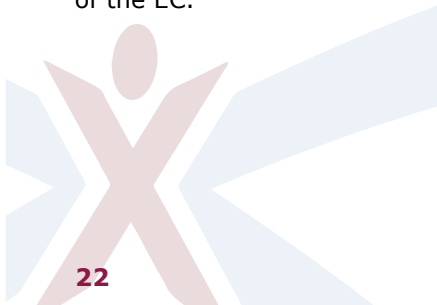
This recommendation has the unanimous support of the members of the EC.

Disclosure statement

A housekeeping update is needed to address an inconsistency between the subsections of Section 240 of the *Elections Act* so that all will state 'to be equal to or exceed two hundred dollars'. Further amendment is now needed to align Sections 240(2) and (3) which currently specify disclosure for contributions that exceed two hundred dollars.

Recommendation 19: Amend Section 240(2) and (3) to clarify that the disclosure amount is to be equal to or exceed two hundred dollars.

This recommendation has the unanimous support of the members of the EC.



Campaign Period Finances

If recommendations made in the report related to a campaign period are accepted, then further amendments will be required to align the period covering election expense spending limits, reimbursement limits and maximum election expenses.

Recommendation 20: *Make the following amendments to align the period covering election expense spending limits, reimbursement limits and maximum election expenses with both the pre-writ campaign period and the writ period for fixed-date elections:*

- *Amend Sections 259(1) and 260(1) regarding the longer period associated with election expense spending limits to reflect the inclusion of the pre-writ campaign period rather than only the writ period.*
- *Amend Section 260(4) to account for the longer period associated with the inclusion of a pre-writ campaign period when calculating maximum election expenses.*
- *Amend Section 278(1) to ensure a third party shall register within seven days of incurring election advertising expenses of a total amount of five hundred dollars and may not register before the issue of the writ or, in the case of a fixed-date, the start of the pre-writ campaign period.*

This recommendation has the unanimous support of the members of the EC.

