

Election Readiness Update

Report of the Chief Electoral Officer

January 7, 2021



Message from the Chief Electoral Officer

Elections Nova Scotia (ENS) first identified the unique challenges facing election readiness planning for the 41st Provincial General Election (PGE) in our 2018-2019 Annual Report. On November 6, 2019, I published my first election readiness update report and took an unprecedented step to move our election readiness planning date from April 1, 2020 to April 1, 2021. In ENS's 2019-2020 Annual Report, released in September 2020, I provided an update to our progress in the preparation for the next PGE. I reported that we have faced three significant challenges not previously experienced: a lag by a full fiscal year in our budget appropriations, a global pandemic and continued legislative uncertainty.

The purpose of this report is to provide all Nova Scotians another update on where we stand to date with respect to our election readiness plans given these challenges. It also provides an overview of what you can expect to see in terms of the delivery of the election, should the next Premier choose to dissolve the House before September 1, 2021.

Over the past 20 years, Nova Scotia's Premiers have chosen to call provincial general elections on average three and a half years into their five-year mandate. In the absence of fixed date election legislation, ENS had planned to be fully election ready three years into the current government's term. Due to a delay of a year in our budget funding allocation, our first significant challenge, we have now surpassed the initial election readiness date that I had targeted by more than a half year and won't be fully prepared to deliver a general election until April 1, 2021.

The COVID-19 pandemic, the second significant challenge, has led us to revisit all our in-person voting procedures. With the guidance of the Chief Medical Officer of Health, Dr. Strang and his staff, we are now confident we can safely deliver an election in-person. While we are hopeful the pandemic dissipates, we nonetheless must prepare under the assumption that full pandemic safety precautions will be required. The cost of these precautions and personal protective equipment (PPE) required to support them have added nearly \$800k in unanticipated spending to our forecast this year.

Legislative uncertainty, our third significant challenge, has forced ENS to prepare for two distinct election scenarios, one election scenario with the legislative improvements found in Bill 225 and one without. On February 21, 2020, legislative amendments to the *Act* were tabled in the House of Assembly in Bill 225. These amendments improve transparency and clarify processes for voters and candidates, loosen current operational restrictions by simplifying electoral administration and provide financial support for those candidates who incur additional costs for childcare, elder care, spousal care, or disability provided they receive a minimum of 10 percent of the valid votes cast in their district. Bill 225 received Royal Assent during the spring 2020 session of the House of Assembly and is awaiting proclamation.

As of the publication of this report, it has not been proclaimed by Executive Order. We no longer have the luxury of preparing to deliver the 41st PGE by April 1, 2021 if the improvements contained in this bill will be proclaimed. From this date forward, we will be focused solely on the delivery of the 41st PGE based on the *Elections Act* as it now reads.

What is most important at this time is to ensure that we will deliver a safe, fair, inclusive and balanced election on April 1st to the high standards that all voters, candidates and campaign teams have grown to expect. A subsequent election readiness date of September 1st, 2021 has been set that will enable ENS to prepare to deliver an election based on the changes laid out in Bill 225, should it be proclaimed in the interim.

The remainder of this report will focus on the various ways in which the delivery will change and what the election will look like from the point of view of voters, candidates, political parties and the media.

Background

ENS's 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 (CEO), I must anticipate the earliest date on which a provincial general election could be called and plan and budget accordingly. As the 40th PGE was held on May 30, 2017, the spring of 2022 is the latest possible time the 41st PGE could occur.

The ENS provincial general election cycle is made up of three parts. Parts one and two take anywhere between 12 and 18 months to complete.

1. Planning and Preparation – Staff prepare election readiness plans for implementation. These plans would account for any new, revised procedural or legislative changes.
2. Implementation – With plans approved, staff begin to implement. This typically involves enhancements to our election management systems software, hiring and training core returning office election staff, procuring and preparing election equipment, technology and materials, as well as identifying and inspecting returning offices and voting locations (inspections validate accessibility and fit for use); and
3. Delivery – Staff execute all election activities once the writs are issued.

Elections readiness is the completion of part two, the implementation of plans. Once the implementation of plans is complete, ENS has a warehouse with skids fully packed and prepared for each of the 55 electoral districts, all returning office core staff hired and fully trained in their responsibilities, training materials for polling staff, candidate official agent training prepared and all public communications and media support locked in place.

After April 1, 2021 ENS will review and prepare for a second election readiness target, September 1, 2021. There will inevitably be some staff turnover within the ranks of appointed returning officers and their chosen core election officials. Given the five-month gap, orientation training and refresher training will also be prepared and ready to deliver in the August timeframe. In addition, all technology assigned to the field will need to be refreshed and checked to ensure it is in working order and ready to use. Lastly, if Bill 225 is proclaimed, some of the packed returning office materials, manuals and training modules will have to be updated to reflect the legislative changes coming into force.

Similarly, ENS has plans for a third election readiness target of April 1, 2022 should a PGE not be called in 2021.

Bill 225 and Legislative Change

After the 40th PGE in May 2017 and the Cumberland South by-election held in June 2018 the CEO included recommendations for legislative change (see the Report of the Conduct of the May 30, 2017 Provincial General Election, https://electionsnovascotia.ca/sites/default/files/2017_Volume2ReportonConduct.pdf).

This process to develop the recommendations uses the lessons learned and applies them to improve the administration and delivery of future elections as well as the ongoing administration and regulation of stakeholders. ENS follows this best-practice model and preforms a review for potential legislative and regulatory improvement following each electoral event. This process normally includes input from all stakeholders such as returning officers, official agents and the Election Commission. ENS collects and considers all feedback for inclusion in any recommended changes.

The Election Commission unanimously supported almost all the recommendations and the Minister of Justice subsequently considered them. In spring 2020 session of the House of Assembly, *Bill 225 – Elections Act (amended)* was tabled (see Appendix A for a summary of the changes included). Bill 225 included 22 of the 25 of the CEO's recommendations and included further initiatives from government.

On March 10, 2020 Bill 225 received Royal Assent. ENS had planned election readiness activities on the assumption that the changes in Bill 225 would likely be in effect before April 1, 2021 and began to develop plans that considered the changes in the Bill. ENS communicated these changes to political parties through the Election Commission and through the official agents and party executives for the spring election readiness activities. The *Elections Act* recognizes the impact of changing the *Act* in the preparations for an election. Section 254 of the *Act* states "No amendment to this Act applies in any election for which a writ is issued within six months from the passing of the amendment".

Note: *As Bill 225 has not been proclaimed as of the date of the release of this report, the changes in the Bill will not be included in our preparations for an election called between April 2021 through to September 1, 2021. Once proclaimed, ENS will require an additional six months to rework supplies and training materials that reflect the changes that come into effect with proclamation. Returning office core staff will also need to be informed and trained on the impact of the changes.*

COVID-19 Preparations

Currently, Nova Scotia is under a provincial state of emergency due to the COVID-19 virus. We anticipate that through at least the spring of 2021 that precautions against the pandemic must be in place during the election to ensure the safety of voters, election officials, candidates, and all those that will attend a voting location or returning office. ENS has consulted with Dr. Strang and his team to be able to maintain the public health and health orders and restriction during an election. We have also learned from and considered the best practices applied during the provincial elections held during the pandemic, in New Brunswick, British Columbia, and Saskatchewan.

ENS has worked within government process and through procurement to acquire the necessary PPE to add physical barriers and sanitize surfaces during the voting process.

Further details of the impacts of these plans and precautions are outlined in the 41st PGE section below.

Budget for 2021-2022 Fiscal Year

Annually, ENS presents budget estimates before a Special Committee of the House. The budget estimates for this coming fiscal year will be presented the Special Committee to Review the Estimates of the Auditor General and the CEO at 4:00pm on January 12, 2021.

An overview of the election readiness cost estimates required to support this report can be found in Appendix B.

The 41st Provincial General Election

This section highlights the most significant changes that will be included for the 41st PGE and differ from the 40th PGE held in 2017. These changes will impact voters, election officials and political stakeholders during the first election readiness cycle, that is, from April 1, 2021 through to September 1. Most of the changes highlighted here are a result of running an election during a pandemic, however, in anticipation of Bill 225, ENS also considered a number of items in the Bill (see Appendix A) that could be implemented without legislative change with and without Bill 225 coming into effect.

Shift in Focus for Voting Opportunities

Based on the changes in voter preferences observed in the three provincial general elections held under COVID-19 conditions in 2020 and discussions with those electoral management bodies, ENS plans to reduce the risks posed by the pandemic and attempt to “flatten the curve” by offering more early voting options across the province. In 2017, 69% of those that voted chose Election Day. In 2021, a similar turnout would make it the most crowded day for voters and would provide the least ability for voters to physically distance to meet COVID precautions. By focusing on expanding early voting options and vote-by-mail, we aim to drive voters toward choosing one of these options and thereby reduce the exposure risk posed by Election Day. Providing information about alternatives to voters and emphasizing how to safely vote, we anticipate that voters will take advantage of vote-by-mail and other early voting options in much greater numbers. It is not unreasonable to expect a doubling of those who chose to vote before election day in 2021 if COVID persists (from the 31% in 2017 to 64% in 2021).

Table 1 shows the impact of COVID in the three other provinces that held general elections this year and the working estimates for the anticipated turnout by voting option for our 41st PGE.

Table 1

	Nova Scotia			Saskatchewan		British Columbia		New Brunswick	
	41 PGE Estimate	2017 40 th PGE	2013 39 th PGE	2020	2016	2020	2017	2020	2018
Vote-By-Mail	12%	1.1%	2.4%	12.7%	1.0%	26.4%	0.3%	3.5%	0.03%
Advance	42%	30.0%	22.0%	41.6%	25.5%	36.1%	33.5%	34.9%	22.8%
Election Day	46%	68.9%	75.4%	44.8%	72.8%	37.5%	66.1%	47.8%	65.2%
Turnout	TBD	53.35%	58.20%	54.21%	56.82%	54.09%	60.82%	66.14%	66.40%

Voting by mail

A key voting option that will be emphasized to voters is vote-by-mail. In previous elections most voters chose this option because they were out of the province during the election whether it was for work or for recreation. Because of COVID, we plan to support this voting method through widespread communications outlining the how (procedures to apply and vote), the who (qualifications) and the when (timing of when ballot packages will be mailed and when ballots must be received to be counted).

ENS will develop an on-line method for voters to apply and receive their mail-in ballot package soon after the writ is issued. This is planned to go live in March.

Voting in Person

The most significant changes to voting experiences on Election Day and at the early voting options (advance polls, community polls, and returning office polls) will be the added precautions to keep voters and election workers safe. Some of these are:

- Election workers are required to wear the PPE designated for their position.
- Voters will need to wear a mask to enter the voting location (exceptions granted for those with medical reasons).
- Transparent table-top barriers will be in place in all voting locations and every returning office to further protect election workers and voters.
- Election workers will be hired to disinfect following each voter interaction.
- Capacity limits and physical distancing will be clearly marked and enforced at all voting locations and returning offices.
 - Limiting scrutineer volumes – Using the discretionary authority in the *Elections Act*, candidates will be limited to one scrutineer at the poll.
- Increased early voting options by opening community polls to operate for more days and in more electoral districts.

- One stop service model for all early voting locations –Staff assigned to each poll will register voters and provide them their ballot, which decreases the time voters need to be present at a voting location.

Voting at Mobile Polls (Nursing Homes and Residential Centres)

We have communicated our decision to reduce the number of mobile polls across the province, while maintaining service levels to those voters residing in such residences. During the 2017 PGE mobile polls were held at any nursing home or residential centre with 10 or more voters. We have determined that it is not an efficient use of election workers serving mobile polls with less than 40 voters.

The *Elections Act* requires election workers to remain at a mobile poll for a minimum of two and a half hours. Mobile polls with less than 40 voters are often fully serviced within the first 30 minutes, leaving the election workers sitting idle for two hours before they can proceed to their next mobile poll.

Nursing homes and residential centres with less than 40 voters will be served by the write-in ballot teams.

Outreach Initiatives

ENS has undertaken several outreach initiatives to make the registration and voting process more accessible to voters by removing obstacles. There are three outreach initiatives targeting improved accessibility and inclusivity for First Nation, African Nova Scotian, and Acadian Francophone Nova Scotian voter groups.

The overall objective of the First Nation program is to facilitate participation in the electoral process. Voter turnout on reserves historically has been low for provincial elections. This may be due to several issues including lack of information regarding registration and the voting options available. These issues will be addressed through an outreach program for First Nation voters that will promote the options for registering and voting and by locating polls on reserves.

The objective of ENS's African Nova Scotian Engagement strategy is to build ongoing relationships with African Nova Scotian communities to ensure their elector needs are understood and met. To achieve this goal, ENS has contracted an African Nova Scotian Liaison Officer to develop and lead this engagement Strategy for the 41st PGE. ENS and the African Nova Scotian Liaison Officer are also working with African Nova Scotian Affairs to help inform this strategy.

The goal of ENS's Acadian and Francophone Outreach strategy is to provide appropriate election material in French to ensure the elector needs of Acadian communities are met. To achieve this goal, ENS has established a French Language Policy to enhance the delivery of election material over time.

Election Night Results

One of the most significant legislative recommendations made following the 2017 PGE was the request to implement e-ballot (digital on-screen voting) for early voting. This recommendation was made because of counting the early voting ballots, which took until

2:30 a.m. following Election Day to conclude. The e-ballot process would have reduced the time to deliver the election results for all early voting polls substantially.

As Bill 225 has not been proclaimed, I intend to proceed with using ballot-on-demand at all early voting locations, as was done in 2017. This decision would be of less significance should we not be in a pandemic. As I intend to promote early voting as an alternative to voting on Election Day to help 'flatten the curve', I am expecting many more early voted ballots to count on election night than witnessed in 2017, which was in itself, a record number historically.

Under the new precautions, with the added complication of physical distancing, and potentially more ballots to count, I anticipate that election night vote counting challenges will extend the time required to report preliminary results in many of the 55 districts. We may be required to delay the delivery of early voting results until the day after Election Day to reduce the risk of human error in the count because of fatigue. I expect that a rest period may have to be given to workers who will have worked since 7 a.m. on Election Day prior to completing the count.

Electoral Districts

Bill 187, *House of Assembly Act (amended)* was passed in October 2019 to implement the recommendations of the work of the Electoral Boundary Commission. The legislated 55 electoral districts come into effect on the dissolution of the House for the 41st PGE. ENS has prepared maps and polling divisions to implement these new boundaries. Maps of both the current 51 electoral district boundaries and the new 55 electoral districts can be found on the ENS website (<https://electionsnovascotia.ca/electoral-maps>).

Conclusion

Moving forward, and in the interest of providing clarity in election readiness preparation, I ask that changes to *Elections Act* contemplated by the government be proclaimed as early as possible in 2021. Proclamation by April 1, 2021 would provide us the opportunity to incorporate the changes by September 1, 2021 should the new Premier not call an election before that date.

I will continue to assess and mitigate risks associated with election readiness planning and commit to reporting to the members any significant change to our preparations.

Respectfully,



Richard Temporale

Chief Electoral Officer

APPENDIX A – Summary of Bill 225 Changes

Provisions in Bill 225 (These provisions in Bill 225 will come into effect once proclaimed by Executive Council)

Change	What Does It Do?
Election advertising will no longer be restricted within 60 metres of a voting location or returning office	Loosens a restriction on political advertising.
The HQ of a registered party, candidate, or candidate's agent will no longer be restricted from being within 60 metres of a returning office.	Loosens a restriction on locations used in an election. Note: Candidates need the agreement of the CEO for their HQ to be in the same building as a returning office.
The CEO will publicly communicate candidate withdrawals or the withdrawal of party endorsement after the close of nominations. The CEO will have the authority to update ballots for both early voting and Election Day depending on time remaining.	Reduces voter confusion and to clarify what is on the ballot.
The CEO may introduce internet voting for members of the Armed Forces stationed outside of NS during an election.	Allows the CEO to introduce more technology options into the voting process and makes it easier for members of the Armed Forces stationed out of Nova Scotia to vote. (Referred to as e-Voting or internet voting)
The CEO may introduce the use of technology to support the voting process at early voting options.	Allows the CEO to use technology to streamline the voting process for voters at early voting polls. (Referred to as e-Ballots, or digital ballots). This will make it easier and faster to count the ballots used at early voting and will reduce delays in reporting the election results after close of polls on Election Day.
Removed the requirement that two witnesses/observers be present before starting the counting of ballots for any poll.*	Allows counting to proceed when observers are not available.

Removed the redundant step of checking the voter's identity twice.

Makes it easier and faster to count ballots.

Removed the requirement that the notice of election and the grant of poll be published in a newspaper.

Allows the CEO flexibility to use social media and other media to announce elections, to reach more people and be more cost effective.

The maximum number of voters assigned to each polling division will be at the discretion of the CEO with consideration given to travel time standards.*

Allows the CEO flexibility to align polling divisions to standardize the travel time of voters to their voting location and improve voter traffic flow.

Pilot projects (including an e-poll book solution) will be allowed after presenting the details to the Election Commission, considering their feedback, and receiving unanimous consent of the Commission.

Makes it easier for Elections Nova Scotia to innovate and be responsive to new advancements in election procedures, equipment or technology.

Declined ballots will be reported in the Official Results.

Affords more transparency in the reporting of votes cast.

Voters or their representatives can no longer apply for a correction to their information orally and must do so in writing.*

Increases integrity and security of the voting process by limiting opportunity for voter fraud through identity theft.

Removed the requirement that the CEO must request lists of election officers from the candidate of the registered parties that came in first and second in the previous election.

Speeds up poll staffing process while allowing returning officer more flexibility in staffing decisions.

Removed the requirement that voters must provide their "sex" when making applications for the Register or List of Voters.*

Affords more privacy to voters and make provision of this information optional.

An applicant applying for a recount must provide specific justification to the Justice. Specific justifications are that: a Deputy Returning Officer (DRO) has improperly counted any ballot or improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or the RO has improperly tabulated the votes; or where the court has

Brings Nova Scotia in line with standards adopted by other Canadian and provincial electoral jurisdictions.

determined there may be other grounds to justify a recount.

Provides funding for candidates who incur additional costs during the writ period for disability expenses, childcare, elder care, or spousal care if they receive a minimum of 10 percent of the valid votes cast.

Potentially lowers the financial barriers to becoming a candidate for some people who care for a child, spouse or elderly relative or those who are disabled.

** These provisions in Bill 225 will be considered for implementation for the 41st PGE without Proclamation from Executive Council.*

APPENDIX B – 2021-2022 BUDGET SUBMISSION (January 2021)

Recommendation to the Special Committee

Elections Nova Scotia (ENS) presents a budget to the Special Committee to Review the Estimates of the Auditor General and the CEO. Details of the budget submission will be released to the members of the Committee for review on January 12, 2021. Given the uncertainty of the timing of the pending Provincial General Election (PGE), ENS is working towards an initial election readiness date of April 1, 2021. As a comparison, in addition to our approved readiness spending in 2020-2021 of \$2.679m, we spent an additional \$800k for unforeseen COVID related preparations. For 2021-2022, ENS will be requesting \$616k to maintain our preparedness by targeting two additional election readiness dates of September 1, 2021 and April 1, 2022 plus \$135k related to COVID. If the new Premier calls the general election this spring, the bulk of the \$616k requested will be returned to the province’s general revenue fund.

Election Readiness Estimates

Overview	2020-21 Forecast	2021-22 Budget
Election readiness	2,679	616
COVID-19	800	135
	3,479	751