

Municipal Elections - Proposed Legislative Amendments

(City Council on December 14, 15 and 16, 1999, amended this Clause by:

- (1) amending Recommendation No. (1)(i) of the Administration Committee by adding thereto the following:*

“and further, that the Acting Minister of Municipal Affairs and Housing be also requested to amend the Municipal Elections Act, 1996, and Ontario Regulation 101/97 to provide that the spending limit figures for candidates are adjusted every three years, based on the Consumer Price Index”, so that such recommendation shall now read as follows:

“(1)(i) amending Recommendation No. (41) to provide that the spending limit for candidates for Councillors be increased to \$3,500.00 base and \$0.96 cents per elector, and further, that the Acting Minister of Municipal Affairs and Housing be also requested to amend the Municipal Elections Act, 1996, and Ontario Regulation 101/97 to provide that the spending limit figures for candidates are adjusted every three years, based on the Consumer Price Index;” and

- (2) adding thereto the following:*

“It is further recommended that the City Solicitor be requested to submit a report to the Administration Committee with respect to Recommendation No. (39), such report to include comment on the issues raised by such recommendation and the remedies currently in place for improper third-party campaigning, viz.:

‘(39) review the issue of third-party campaigning and make any necessary amendments to the Act that would impose on these individuals the same accountability and spending limits as candidates have;’.”)

The Administration Committee recommends:

- (1) the adoption of the report (November 17, 1999) from the City Clerk subject to:**

- (i) amending Recommendation No. (41) to provide that the spending limit for candidates for Councillors be increased to \$3,500.00 base and \$0.96 cents per elector; and**
- (ii) amending Recommendation No. (43) by adding thereto the following words “and that the Mayor be requested to write to the Premier of Ontario and the Minister of Finance, with a copy to the Minister of Municipal Affairs and Housing, urging immediate action respecting this matter which is of great concern to residential tenants”, so that Recommendation No. (43) now reads as follows:**

“(43) section 16.1 of the *Assessment Act* be amended to move the date for property owners to provide a listing of the residential tenants of buildings from July 31 back to May 31, and that the Mayor be requested to write to the Premier of Ontario and the Minister of Finance, with a copy to the Minister of Municipal Affairs and Housing, urging immediate action respecting this matter which is of great concern to residential tenants;”;

- (2) that the Province of Ontario be requested to amend subsections 71(1) and 71(2) of the *Municipal Elections Act, 1996* to increase the allowable contribution from a contributor to a candidate from \$750.00 to \$1,000.00; and**
- (3) that the City Clerk be requested to review the impact of the advance polling date, as contained in Recommendation No. (8) embodied in the aforementioned report.**

The Administration Committee submits the following report (November 17, 1999) from the City Clerk:

Purpose:

This report responds to a request from the Corporate Services Committee to report on any necessary legislative amendments to the *Municipal Elections Act, 1996* and Ontario Regulation 101/97 for the 2000 municipal election.

Funding Sources, Financial Implications and Impact Statement:

None.

Recommendations:

It is recommended that the Minister of Municipal Affairs and Housing be requested, as soon as possible, to make the amendments described in items 1 through 42 to the *Municipal Elections Act, 1996* and Ontario Regulation 101/97, as applicable, and the Minister of Finance be requested to make the amendment set out in item 43 to the *Assessment Act*:

- (1) a new subsection be added to section 8 to provide for a question or by-law that is to appear on the ballot to be submitted to the Clerk no later than eight weeks prior to voting day;
- (2) subsection 15(2) be amended to read “The clerk may delegate to any election official any of the clerk’s or deputy returning officer’s powers or duties in relation to an election, as he or she deems necessary”;
- (3) subsection 16(1) be amended to read “A certified candidate may appoint scrutineers to represent him or her during voting and at the counting of votes, including a recount”;
- (4) a new subsection be added to section 17 to prohibit a non-resident elector from voting at his/her former qualifying address if he or she sells the interest in the property during the qualification period;

- (5) a new subsection be added to section 22 that reads “This section is not intended to be a substitution for the revision process set out in sections 24 and 25”;
- (6) clause 24(3)(b) be amended to provide that the Clerk is to “advise the applicant of the approval” rather than return the approved revision application to the elector;
- (7) a new subsection be added to section 25 to permit the Clerk to dismiss, without a hearing, any application which, in the opinion of the Clerk, is frivolous or vexatious;
- (8) section 31 be amended to provide that nomination day be a Friday, 41 days prior to voting day (if voting day is moved to the Thursday after Thanksgiving);
- (9) clause 33(2)(b) be amended to read “be accompanied by a declaration of qualification, in the prescribed form, signed by the person being nominated; and”;
- (10) a new clause be added to section 34 to require that no refund of the nomination filing fee be given until the required financial statement is received by the Clerk and the ninety day compliance audit period has expired;
- (11) section 36 be amended to require that the withdrawal of a candidacy must be filed in person by the candidate or his or her agent;
- (12) section 39 be amended to provide that should any mayoralty candidate die during the time period beginning the day after nomination day and before the close of voting on voting day, the election for the office of mayor shall be void and a by-election shall be held to fill the office;
- (13) the principles (as set out by the Who Does What Panel) should be included in the *Act*. Alternatively, subsection 42(4) should be amended to read “The procedures and forms established by the clerk under this section, if arrived at in good faith, prevail over anything in this Act or the regulations made under it”;
- (14) a new subsection be added to section 42 to provide that if vote counting equipment is being used, clauses 47(5)(e) and 47(5)(f) and subsection 54(3) do not apply;
- (15) subsections 44(2) and (3) be amended to clarify that a person may act as a proxy for another elector or for his or her family members but not both;
- (16) subsection 44(4) be amended to read “The appointment of a voting proxy may be made only after the Tuesday following nomination day and does not remain in force after voting day”;
- (17) clause 44(5)(b) be amended to provide that a proxy voting appointment may be presented at the Clerk’s office or any other location designated by the Clerk;

- (18) subsection 45(4) be amended to provide that the space to be used for a voting place in multi-residential buildings greater than 100 units, buildings owned by a municipality or school board and provincially funded institutions shall be provided free of all charges;
- (19) a new clause be added to subsection 47(1) to permit “any other person with the permission of the clerk” to be present at a voting place. A complementary amendment is also required to the lead-in of subsection 47(5);
- (20) subsection 48(2) be amended to replace “in a voting place” with “in or at a voting place”;
- (21) clause 52(3)(a) be amended to provide the mark must be made “...within the designated marking space provided to the right of...”;
- (22) clause 55(1)(b) be amended to exclude the voters’ list from placement in the ballot box;
- (23) subsection 56(2) be amended to increase the time period for the conduct of a tied vote recount from ten to fifteen days;
- (24) clause 57(1)(a) be amended to increase the time period for a council to pass a resolution requiring a recount from thirty to sixty days;
- (25) subsection 57(2) be amended to increase the time period for the conduct of a recount requested by a council, local board or the Minister of Municipal Affairs and Housing from ten to fifteen days;
- (26) subsection 58(4) be amended to increase the time period for the conduct of a court ordered recount from ten to fifteen days;
- (27) paragraph 65(4)1. be amended to increase the time period for the setting of nomination day from thirty to sixty days after the need for a by-election is established;
- (28) subparagraph 65(4)4.ii. be amended to provide that the assessment commissioner is to give the preliminary list of electors for a by-election to the Clerk at least twenty-one days prior to nomination day;
- (29) paragraph 65(4)5. be amended to provide that the time period for applications to delete a name from the voters’ list in a by-election end on nomination day;
- (30) paragraph 68(1)2. be amended to provide that the campaign period ends on January 31 in the year following a regular election and ninety days after voting day in the case of a by-election;
- (31) a new subparagraph be added to paragraph 68(1)4. to permit candidates a maximum of one additional year after the end of the regular campaign period to eliminate any deficit. A complementary amendment is also required to paragraph 68(1)5.;
- (32) sections 77 and 78 be amended to set March 31 in the year following the regular election as the filing deadline for financial statements. For by-elections, the filing deadline should be 150 days after voting day;

- (33) sections 77 and 78 be amended to provide a maximum additional campaign period of one year from the normal end of the campaign period. Only one supplementary financial statement would need to be filed within sixty days of the end of the additional campaign period;
- (34) subsection 78(3) be amended to clarify that the supplementary financial statement is to be a total update of all the campaign financial activities from the date of nomination, not just the supplementary reporting period activities;
- (35) clause 80(1)(b) be amended to read “a document filed under section 78 shows on its face a surplus, as described in section 79, and the candidate fails to pay the amount required by section 79 to the clerk by the relevant date”;
- (36) subsection 80(3) be amended to increase from five days to ten days the time for the clerk to send a default notice to candidates who have not met the financial filing requirements;
- (37) subsection 80(6) be amended to require the candidate, within ten days of the date of the judge’s declaration waiving the penalties due to inadvertence or an error in judgement, to file the required financial statement or pay over to the clerk the applicable surplus, as the case may be;
- (38) subsections 81(3) and 81(10) be amended to increase from thirty days to sixty days the time periods for a council to consider a request for a compliance audit and the auditor’s compliance audit report, respectively;
- (39) review the issue of third party campaigning and make any necessary amendments to the *Act* that would impose on these individuals the same accountability and spending limits as candidates have;
- (40) a new subsection be added to section 1 of Ontario Regulation 101/97 to provide that for the office of mayor for the City of Toronto Council the prescribed nomination filing fee is set at \$1,000.00 and for the office of councillor for the City of Toronto Council the prescribed nomination filing fee is set at \$500.00;
- (41) section 5 of Ontario Regulation 101/97 be amended to increase the \$0.50 cents per elector in the campaign expense spending limit formula. In deciding on an appropriate increase, the Province should have consideration to the Provincial candidate spending limit of \$0.96 per elector or to providing for a cost of living allowance (COLA) increase to the \$0.50 per elector originally established back in 1988. Any revised formula should provide for automatic COLA increases;
- (42) section 9 of Ontario Regulation 101/97 be amended to include on the proxy form the telephone number of the elector making the proxy; and
- (43) section 16.1 of the *Assessment Act* be amended to move the date for property owners to provide a listing of the residential tenants of buildings from July 31 back to May 31.

Council Reference:

City Council has already considered a report from the City Clerk on a possible amendment to the *Act* to change the date of the municipal election. On April 13, 14 and 15, 1999, City Council amended Clause No. 7 of Report No. 7 of the Strategic Policies and Priorities Committee by adding thereto a new recommendation number 5, so that the clause now reads as follows:

- “(1) Council request the Minister of Municipal Affairs and Housing to amend the *Municipal Elections Act, 1996*, Section 5, to enable municipalities to pass a by-law to provide for a voting day as approved by the municipality. The amendment should limit the choice of dates to a day no later than the second Monday in November and no earlier than the Thursday after Thanksgiving in October;
- (2) in the event the Minister is not in favour of Recommendation No. (1) above, the Minister be requested to institute a Province-wide municipal election date of the Thursday after Thanksgiving in an election year;
- (3) Council indicate their support for the City of Toronto municipal election to be held on the Thursday after Thanksgiving in an election year;
- (4) Council request the Minister of Municipal Affairs and Housing to amend the *Municipal Elections Act, 1996*, subsection 6(1) to enable municipalities to pass a by-law to provide for the beginning date for a new council. Such date to be no more than two weeks after the date of the election; and
- (5) it is further recommended that, in the event the municipal voting day conflicts with religious holidays, the City Clerk be requested to seek the necessary amendment to the *Municipal Elections Act, 1996* to hold additional advance polls.”

On June 9, 10 and 11, 1999, City Council, in receiving for information, Clause No. 30 of Report No. 6 of The Corporate Services Committee under “Other Items”, was advised of the following action taken by the Committee:

- “(1) the attached background report, “Election 2000”, be received for information at this time;
- (2) a copy of this report be circulated to all Members of Council; and
- (3) the City Clerk be authorized to undertake consultations with Members of Council, and through focus groups consisting of candidates, voters and other stakeholders, on the issues and draft proposals contained in the report and report on any necessary legislative amendments, policies and procedures to Council in July and December, 1999.”

This report addresses the above directives of Council on any necessary amendments required to the *Municipal Elections Act, 1996*. Reports on the election process and procedures, and the by-laws required for the conduct of Election 2000 are also before the Committee.

Comments and /or Justification:

The 1997 municipal election was the first election conducted under the revised *Municipal Elections Act, 1996* (the “Act”). The Act provided for greater discretion and flexibility in election administration to suit the particular needs of local municipalities. While many of the new provisions of the Act worked well, there are areas where amendments would further improve and simplify election administration.

During the preparation of this report, the City’s Elections staff consulted with Members of Council and hosted six public meetings at the Civic Centres during the period October 18 to October 26, 1999. A number of citizens made presentations at the public meetings, some on the behalf of community and ratepayer groups. The input of both the Members of Council and the public were considered in developing the recommendations contained within this report.

These suggested amendments are in addition to the change to the municipal election day and the beginning of the term of council which have already been approved by City Council and forwarded to the Minister of Municipal Affairs and Housing.

To permit the necessary time for the Minister of Municipal Affairs and Housing to consider these suggested amendments to the *Municipal Elections Act, 1996* and Ontario Regulation 101/97, this list should be forwarded to the Minister as soon as possible. The list should also be sent to the Minister of Finance for the one recommended amendment to the *Assessment Act*.

Attached as Appendix “A” to this report is a table which sets out the current wording of the sections of the Act that the following recommended amendments pertain to.

(1) Date of the Submission of a Question/By-law to Appear on the Ballot:

Currently there is no legislated date for the last day a council, local board or the Minister of Municipal Affairs and Housing may submit a question or by-law to the Clerk to appear on the ballot. The late submission of a question or by-law to the Clerk has implications on ballot design and whether or not there is, in the Clerk’s opinion, sufficient time to give proper notice of the question or by-law to the electors.

It is suggested a new subsection be added to section 8 to provide for a question or by-law that is to appear on the ballot to be submitted to the Clerk no later than eight weeks prior to voting day.

(2) Delegation of Deputy Returning Officer’s Powers:

The *Act* assigns specific legislated duties to the deputy returning officer (DRO). In order to make more effective use of the voting place staff, it is desirable that the Clerk be given the ability to delegate any of the DRO's duties to other election officials. This would result in improved customer service for the electors as more than one staff person at the voting place would be able to perform the DRO's duties.

It is suggested that subsection 15(2) be amended to read "The clerk may delegate to any election official any of the clerk's or deputy returning officer's powers or duties in relation to an election, as he or she deems necessary".

(3) Appointment of Scrutineers:

Subsection 16(1) permits any candidate to appoint scrutineers to represent him or her at the voting places. However, as only the names of certified candidates appear on the ballot, only certified candidates should be entitled to appoint scrutineers. (This would be consistent with subsection 47(1) of the *Act* where only scrutineers appointed by certified candidates are entitled to be present in the voting place.)

It is suggested that subsection 16(1) be amended to read "A certified candidate may appoint scrutineers to represent him or her during voting and at the counting of votes, including a recount".

(4) Qualifications of Electors:

The *Act* prohibits a resident elector, who has moved during the qualification period, from voting at his/her former qualifying address. No such prohibition exists for a non-resident elector who sells his or her interest in a property during the qualification period. This gives rise to a double standard for electors - one for resident electors and another for non-resident electors.

It is suggested that a new subsection be added to section 17 to prohibit a non-resident elector from voting at his/her former qualifying address if he or she sells the interest in the property during the qualification period.

(5) Corrections of Errors to the Preliminary List of Electors:

Section 22 permits the Clerk to correct the preliminary list of electors for "obvious errors", typically being streets missed or listed in the incorrect voting subdivision. It has been suggested by some that this also gives the Clerk the power to add or delete names to the list. It is the opinion of the Elections staff that this is a broad and potentially dangerous interpretation of this section as names could be added or deleted without the necessary safeguards provided by the *Act*.

It is suggested that a new subsection be added to section 22 that reads "This section is not intended to be a substitution for the revision process set out in sections 24 and 25".

(6) Revision of List by Elector:

Section 24 permits an elector to make application to the Clerk to have his or her name added to or deleted from the voters' list or to have the information on the list amended (such as school support). The Clerk, in approving the application, is required to return a copy of the approved application to the elector. When this application is made early in the revision period, any approved changes can be incorporated directly into the official voters' list for the voting place. However, as the elector has the approved application in his/her possession, it presents the opportunity for the elector to vote twice, once on the basis of being on the voters' list and once by way of the approved application. To enhance the integrity of the voting process, copies of the approved applications should only be returned to those electors whose change will not be reflected in the official voters' list, i.e. those made late in the revision process. Where the voters' list can be updated to reflect the change, the elector should only be advised of the approval (either verbally or by letter), not receive a copy of the approved application.

It is suggested that clause 24(3)(b) be amended to provide that the Clerk is to "advise the applicant of the approval" rather than return the approved revision application to the elector.

(7) Deletion of Name from the Voters' List:

Section 25 permits a person to make application to the Clerk to have the name of an elector removed from the voters' list. When such an application is made, the Clerk is required to hold a hearing, with notice being given. Occasionally, there is no legal basis for the application being made, the applicant is merely incorrect in his or her facts. However, there is no ability for the Clerk to simply dismiss these applications, she must hold the hearing.

It is suggested that a new subsection be added to section 25 to permit the Clerk to dismiss, without a hearing, any application which, in the opinion of the Clerk, is frivolous or vexatious.

(8) Nomination Day:

Nomination Day is a Friday, 31 days prior to voting day. With the potential of withdrawals occurring on the following Monday and the possibility of the need to call for additional nominations the week following nomination day, it poses a challenge for Elections staff to prepare sufficient ballots in time for the first advance voting day. Additional time between nomination day and voting day would help alleviate this and would also be of benefit for any municipality utilizing vote by mail or telephone voting.

Following Council's endorsement to move voting day to the Thursday following Thanksgiving, it is suggested that section 31 be amended to provide that nomination day be a Friday, 41 days prior to voting day.

(9) Nomination Requirements:

Section 33 sets out the necessary requirements for a nomination form, including that the nomination must include a “consent to the nomination”. As there is no longer a legislative need to obtain ten nominators, this requirement should be deleted; the candidate is, in effect, nominating himself or herself.

It is suggested that clause 33(2)(b) be amended to read “be accompanied by a declaration of qualification, in the prescribed form, signed by the person being nominated; and”.

(10) Refund of the Nomination Filing Fee:

Section 34 permits a refund of the nomination filing fee if the candidate withdraws his or her nomination, is elected to office or receives a prescribed percentage of the votes. To ensure compliance with the financial filing requirements, any refund should also be contingent on the candidate filing the required financial statements and the expiration of the compliance audit period.

It is suggested a new clause be added to section 34 to require that no refund of the nomination filing fee be given until the required financial statement is received by the Clerk and the ninety day compliance audit period has expired.

(11) Withdrawal of Nomination:

Section 36 permits a candidate to withdraw his or her nomination. In order for the Clerk to satisfy herself that the withdrawal is legitimate, the candidate should be required to file the withdrawal in person or by an agent. This is similar to the requirement that a nomination must be filed in person or by an agent and gives the Clerk the ability to request identification and compare signatures to ensure it is a proper withdrawal.

It is suggested that section 36 be amended to require that the withdrawal of a candidacy must be filed in person by the candidate or his or her agent.

(12) Death of a Candidate:

Section 39 provides that in the event of the death of a candidate for any office, the election shall proceed so long as no candidate would be elected by acclamation. Previously, the *Act* had different rules in the event of the death of a mayoralty candidate, being the election process was halted and a by-election was held. Given the importance of the role of the head of council, it is appropriate to return to the traditional rule whereby the death of any mayoralty candidate necessitated a by-election to be conducted.

It is suggested that section 39 be amended to provide that should any mayoralty candidate die during the time period beginning the day after nomination day and before the close of voting on voting day, the election for the office of mayor shall be void and a by-election shall be held to fill the office.

(13) Clerk's Procedures for Vote Counting Equipment/Alternative Voting Methods:

Subsection 42(4) provides that the procedures and forms established by the Clerk for the use of vote counting equipment or alternative voting method prevail over anything in the *Act* as long as they are consistent with the principles of the *Act*. These principles, as set out by the Who Does What Panel, are:

- the secrecy and confidentiality of individual votes is paramount;
- the election should be fair and non-biased;
- the election should be accessible to the voters;
- the integrity of the process should be maintained throughout the election;
- there should be certainty that the results of the election reflect the votes cast; and
- voters and candidates should be treated fairly and consistently within a municipality.

Unfortunately, these principles are not articulated in the *Act*, leaving the Clerk in an untenable situation should a court challenge be made. It is expected that any clerk would always use his or her best judgement in setting out those procedures necessary to provide for the effective and proper use of the vote counting equipment or alternative voting method.

It is suggested that the principles (as set out by the Who Does What Panel) be included in the *Act*. Alternatively, subsection 42(4) could be amended to read "The procedures and forms established by the clerk under this section, if arrived at in good faith, prevail over anything in this Act or the regulations made under it".

(14) Secrecy of the Vote when using Vote Counting Equipment:

When vote counting equipment is being utilized in an election, then certain provisions of the *Act* dealing with the scrutineers' ability to view the ballots during the counting process and to object to the counting of votes in a ballot should not apply. To do otherwise would compromise the secrecy of the vote as the ballot is, in effect, "counted" as it is inserted into the vote tabulator. If a scrutineer had the right to view the ballot they would know how the elector voted and would thereby violate the elector's right to a secret ballot.

It is suggested that a new subsection be added to section 42 to provide that if vote counting equipment is being used, clauses 47(5)(e) and 47(5)(f) and subsection 54(3) do not apply. (These legislative provisions relate to the examination of the ballots as they are being counted, objection to a ballot or votes within a ballot as it is being counted and objection to a ballot for not being in compliance with the prescribed rules, respectively.)

(15) Voting Proxies:

Subsections 44(2) and (3) provide that a person may only act as a proxy for one other elector, unless the person is the spouse, sibling, parent, child, grandparent or grandchild of the elector making the proxy. Some confusion has arisen as to whether a person may act for both one other elector together with his/her family members.

It is suggested that subsections 44(2) and (3) be amended to clarify that a person may act as a proxy for another elector or for his or her family members but not both.

(16) Timing of Appointment of Voting Proxy:

Subsection 44(4) provides that a voting proxy may only be made after nomination day. This is to ensure that the list of nominated candidates has been finalized so that the elector making the proxy can instruct the proxy on how the elector wishes him/her to vote. However, as nominations may be withdrawn up to 5:00 p.m. on the Monday following nomination day, the final list of certified candidates is not known until then.

It is suggested that subsection 44(4) be amended to read “The appointment of a voting proxy may be made only after the Tuesday following nomination day and does not remain in force after voting day”.

(17) Place for Acceptance of Voting Proxies:

Clause 44(5)(b) requires the elector being appointed as a proxy to present the proxy voting appointment to the Clerk at the Clerk’s office. Given the size of the City of Toronto and the fact that services of the Clerk’s Department are available at any of the six district offices and at Ward Centres during the election period, it would enhance customer service if voting proxies could be accepted at any location designated by the Clerk.

It is suggested that clause 44(5)(b) be amended to provide that a proxy voting appointment may be presented at the Clerk’s office or any other location designated by the Clerk.

(18) Certain Voting Places to be Free of Charge:

Subsections 45(4) and 45(5) provide that space for voting places must be provided free of charge in certain facilities (multi-residential buildings with 100 or more units, buildings owned by a municipality or school board and provincially-funded institutions). Some owners attempt to charge the City fees for administration or janitorial services, thereby defeating the intent of this section.

It is suggested that subsection 45(4) be amended to provide that the space to be used for a voting place in multi-residential buildings greater than 100 units, buildings owned by a municipality or school board and provincially funded institutions shall be provided free of all charges.

(19) Who May Remain in a Voting Place:

Subsection 47(1) lists those individuals who are entitled to remain in the voting place. This list permits one scrutineer per candidate for each ballot box in use at the voting place. Some of the former municipalities within the City of Toronto traditionally had a number of ballot issuing stations at a voting place to enhance customer service. It is proper that a scrutineer should continue to be permitted at each of these stations. The suggested amendment is also consistent with the provisions of who may be present during a recount.

It is suggested that a new clause be added to subsection 47(1) to permit “any other person with the permission of the clerk” to be present at a voting place. A complementary amendment is also required to the lead-in of subsection 47(5).

(20) Campaign Material Prohibited at a Voting Place:

Subsection 48(2) prohibits the display of any campaign material or literature in a voting place. Some candidates have interpreted this to include only the building, not the exterior of the building. The Clerk normally designates the entire property (including the parking lot, walkways, fences, etc.) as the voting place.

It is suggested that subsection 48(2) be amended to replace “in a voting place” with “in or at a voting place”.

(21) Marking of the Ballot:

Clause 52(3)(a) instructs the elector, in marking his or her ballot, to make a mark “within the space to the right of the name of each candidate for whom the elector wishes to vote”. Some judges have interpreted this to mean that any mark to the right of the candidate’s name is to be counted, not just those marks within the designated space; other judges have ruled that the mark must be within the designated space in order to be valid. It is critical that certainty be given to what constitutes a valid mark.

It is suggested that clause 52(3)(a) be amended to provide the mark must be made “...within the designated marking space provided to the right of...”.

(22) Post Election Scrutiny of the Voters’ List:

Currently, clause 55(1)(b) requires the deputy returning officer to place all documents related to the election, except for the original statement of results, in the ballot box. Subsection 88(6) provides that no person is entitled to inspect any documents in a ballot box in the absence of a judge’s order. The voter’s list, indicating which electors voted on voting day, is one of the documents that is sealed inside the ballot box. In order for election officials and candidates to ascertain whether or not any fraud or illegal activity has occurred, ready access to the voters’ list must be available.

It is suggested that clause 55(1)(b) be amended to exclude the voters' list from placement in the ballot box.

(23) Time for Recount - Tied Vote:

Subsection 56(2) requires a recount for a tied vote must be conducted within ten days of the Clerk's declaration of the results of the election. For the City of Toronto, this is a very narrow time period to properly organize and carry out a recount, particularly a recount for the office of mayor.

It is suggested that subsection 56(2) be amended to increase the time period for the conduct of a tied vote recount from ten to fifteen days.

(24) Time for Council to Request a Recount:

Clause 57(1)(a) permits a council to pass a resolution within thirty days of the Clerk's declaration of the results of the election to require a recount of all or any votes in an election. This is a very narrow time frame given that the Toronto City Council normally only meets once a month. Additional time would also give Council more time to adequately consider the merits of whether or not a recount should be conducted.

It is suggested that clause 57(1)(a) be amended to increase the time period for a council to pass a resolution requiring a recount from thirty to sixty days.

(25) Time for Recount - Resolution or Minister's Order:

Subsection 57(2) requires a recount at the request of a municipal council, local board or the Minister of Municipal Affairs and Housing to be conducted within ten days of the passing of a resolution or the making of an order in the case of the Minister. For the City of Toronto, this is a very narrow time period to properly organize and carry out a recount, particularly if there is a delay in the Clerk's receipt of the resolution or order from the local board or the Minister. Similarly, there is also a timing issue if the recount is for the office of mayor.

It is suggested that subsection 57(2) be amended to increase the time period for the conduct of a recount requested by a council, local board or the Minister of Municipal Affairs and Housing from ten to fifteen days.

(26) Time for Recount - Court Ordered:

Subsection 58(4) requires a court ordered recount to be conducted within ten days of the Clerk's receipt of the judge's order. For the City of Toronto, this is a very narrow time period to properly organize and carry out a recount, particularly if the recount is for the office of mayor.

It is suggested that subsection 58(4) be amended to increase the time period for the conduct of a court ordered recount from ten to fifteen days.

(27) Time for Holding By-elections:

Paragraph 65(4)1. provides that if a by-election is to be held to fill a vacancy in an office, the Clerk shall set nomination day. This day shall be no more than thirty days after the need for the by-election is established, for example once a by-law is passed to require a by-election. Voting day is thirty-one days after nomination day, resulting in a total maximum period of sixty-one days. For the City of Toronto, this is a very narrow time period to properly organize and conduct a by-election, particularly if the by-election is for the mayor's office.

It is suggested that paragraph 65(4)1. be amended to increase the time period for the setting of nomination day from thirty to sixty days after the need for a by-election is established.

(28) Receipt of the Preliminary List of Electors for a By-election:

Subparagraph 65(4)4. ii. requires that the assessment commissioner is to give the preliminary list of electors to the Clerk "before nomination day". This could effectively mean the Clerk might receive the voters' list the day before nomination day. This does not give sufficient time to review the list, prepare copies and allow for a reasonable revision period.

It is suggested that subparagraph 65(4)4.ii. be amended to provide that the assessment commissioner is to give the preliminary list of electors for a by-election to the Clerk at least twenty-one days prior to nomination day.

(29) By-elections - Applications to Delete an Elector's Name:

Paragraph 65(4)5. permits additions, corrections and deletions to the voters' list for a by-election to be made up to the close of voting on voting day. However, prior to deleting a name from the list, the Clerk is required to hold a hearing. In order to allow for sufficient time to give notice of and conduct the hearing, applications to delete a name should only be made up to nomination day. This would be consistent with the provisions in a regular election.

It is suggested that paragraph 65(4)5. be amended to provide that the time period for applications to delete a name from the voters' list in a by-election end on nomination day.

(30) End of Campaign Period:

Paragraph 68(1)2. provides that the campaign period ends on December 1 for a regular election and fifteen days after voting day in the case of a by-election. Many candidates

complained this was too short a period. Extending this period would allow candidates more time to complete their campaigns, receive and pay bills and permit additional time for candidates to fund-raise to eliminate a deficit during the regular campaign period.

It is suggested that paragraph 68(1)2. be amended to provide that the campaign period ends on January 31 in the year following a regular election and ninety days after voting day in the case of a by-election.

(31) Continuation of Campaign Period to Eliminate a Deficit:

If a candidate is continuing to fund-raise to eliminate a deficit, paragraph 68(1)4. defines the end of the campaign period as being the date the deficit is eliminated, the candidate files a nomination in a subsequent election for an office on the City of Toronto Council or the candidate advises the Clerk he/she no longer intends to campaign. There are currently still four candidates in a deficit position from the 1997 municipal election, more than two years after voting day. There is generally little movement in these campaigns from one supplementary filing date to the next. There is a need to bring finality to this process. A definite end to the campaign period would encourage candidates to be more effective in their fund-raising efforts. Candidates may file a nomination paper and begin campaigning on January 1 of an election year, resulting in a regular campaign period of thirteen months (assuming the amendment in recommendation 30 is adopted). One additional year should be sufficient to accommodate the needs of the majority of candidates. Any remaining deficit could be carried over to the next election.

It is suggested that a new subparagraph be added to paragraph 68(1)4. to permit candidates a maximum of one additional year after the end of the regular campaign period to eliminate any deficit. A complementary amendment is also required to paragraph 68(1)5.

(32) Filing Date for Financial Statements:

Sections 77 and 78 require candidates to file a financial statement by January 31 for a regular election and sixty days after voting day in the case of a by-election. Many candidates complained the time period between the end of the campaign period and the filing date was too short for them to properly close off the campaigns and have an audit conducted.

With January 31 as the end of the campaign period (as set out in recommendation 30), it is suggested that sections 77 and 78 be amended to set March 31 in the year following the regular election as the filing deadline for financial statements. For by-elections, the filing deadline should be 150 days after voting day.

(33) Supplementary Financial Statements and Filing Deadline:

Sections 77 and 78 require candidates in a deficit, who are continuing to fund-raise, to file supplementary financial statements covering each three month period their campaign

is continuing. The supplementary statement is due one month after the end of each three month period. This places an onerous burden on candidates to constantly need to file the supplementary statements and creates an administrative burden for staff to monitor this requirement. The process needs to be simplified while still providing for a full public disclosure of the campaign contributions and expenses.

It is suggested that sections 77 and 78 be amended to provide a maximum additional campaign period of one year from the normal end of the campaign period. Only one supplementary financial statement would need to be filed within sixty days of the end of the additional campaign period.

(34) Supplementary Financial Statement Format:

Subsection 78(3) provides that the supplementary financial statement and auditor's report is to update the previously filed statement to reflect the changes to the campaign finances during the supplementary reporting period. The supplementary statement should reflect all the financial activities of the entire campaign, not just the activities during the supplementary period. As some candidates did not interpret the section in this manner, it should be amended to clarify any confusion.

It is suggested that subsection 78(3) be amended to clarify that the supplementary financial statement is to be a total update of all the campaign financial activities from the date of nomination, not just the supplementary reporting period activities.

(35) Penalties for Non-compliance:

Clause 80(1)(b) provides that failure to turn over any campaign surplus shown on the financial statement will result in the application of certain penalties. The Clerk must determine whether or not a default has occurred and send notice of any default to the candidate. This places an onerous task on the Clerk. The only way to be absolutely sure of the amount of surplus, is to review the entire statement to ensure no mistakes have been made. This clause should be amended to be in line with clause 80(1)(c) which uses the words "shows on its face" with respect to whether or not the candidate has exceeded the expense limit.

It is suggested that clause 80(1)(b) be amended to read "a document filed under section 78 shows on its face a surplus, as described in section 79, and the candidate fails to pay the amount required by section 79 to the clerk by the relevant date".

(36) Time for Sending the Default Notice:

Subsection 80(3) requires the Clerk to send a default notice to those candidates in violation of the financial filing requirements of the *Act* within five days of the default occurring. With the large number of financial statements being filed on the due day (in 1997 there were 419 candidates to track), five days is insufficient time to review all the statements for any defects.

It is suggested that subsection 80(3) be amended to increase from five days to ten days the time for the clerk to send a default notice to candidates who have not met the financial filing requirements.

(37) Default - Requirement to Remedy the Non-compliance:

Subsection 80(6) permits a candidate in default of the financial filing requirements of the *Act* to apply to a judge for a declaration that the penalties of the *Act* do not apply due to inadvertence or an error in judgement. There is nothing in this subsection to deal with the correction of the non-compliant situation. There are two possibilities; either an amendment to the subsection to provide that the judge must order the candidate to make the necessary corrective action or put this requirement directly into the legislation.

It is suggested that subsection 80(6) be amended to require the candidate, within ten days of the date of the judge's declaration waiving the penalties due to inadvertence or an error in judgement, to file the required financial statement or pay over to the clerk the applicable surplus, as the case may be.

(38) Compliance Audits:

Subsection 81(3) requires a council to consider any request for a compliance audit within thirty days of the receipt of the request. Should a compliance audit be ordered, under subsection 81(10) a council has thirty days to consider the auditor's report. These time frames are very narrow for the City of Toronto Council as it normally only meets once a month.

It is suggested that subsections 81(3) and 81(10) be amended to increase from thirty days to sixty days the time periods for a council to consider a request for a compliance audit and the auditor's compliance audit report, respectively.

(39) Third Party Campaigning:

Concern has been expressed that the *Act* contains no provision for regulating the activity and spending of a third party in promoting or opposing the election of a candidate. This was identified as an issue in Ward 19 during the 1997 municipal election. Other jurisdictions that have attempted to introduce such measures have determined this would be in violation of an individual's right to freedom of speech under the Charter of Rights and Freedoms.

A possible solution would be to require any person who is supporting or opposing the election of a candidate to register with the Clerk, with a penalty for failure to register. Any such registered person would be subject to the same accountability and spending limits as the candidate whose election the person is supporting or opposing, as the case may be.

It is suggested that the Minister review the issue of third party campaigning and make any necessary amendments to the *Act* that would impose on these individuals the same accountability and spending limits as candidates have.

(40) Nomination Filing Fee:

Subsection 1(1) of Ontario Regulation 101/97 sets the nomination filing fee at \$100.00 for all offices. It has been suggested this amount should be increased for the offices on the City of Toronto Council to ensure candidates are serious in their intentions to seek office on City of Toronto Council.

It is suggested that a new subsection be added to section 1 of Ontario Regulation 101/97 to provide that for the office of mayor for the City of Toronto Council the prescribed nomination filing fee is set at \$1,000.00 and for the office of councillor for the City of Toronto Council the prescribed nomination filing fee is set at \$500.00.

(41) Spending Limit:

Ontario Regulation 101/97, made under the *Act*, sets the spending limit for an office as being \$5,500.00 plus \$0.50 per elector for the head of council and \$3,500.00 plus \$0.50 per elector entitled to vote for the office of councillor. Some Members of Council have indicated these spending limits are too low, given the anticipated reduction in names on the voters' list associated with a more accurate list and the potential change in the number of City wards from 28 to 57. It is noted these amounts have not changed to reflect the cost of inflation since the formulas were first introduced for the 1988 municipal election.

It is suggested that section 5 of Ontario Regulation 101/97 be amended to increase the \$0.50 cents per elector in the campaign expense spending limit formula. In deciding on an appropriate increase, the Province should have consideration to either the Provincial candidate spending limit of \$0.96 per elector or to providing for a cost of living allowance (COLA) increase to the \$0.50 per elector originally established back in 1988. Any revised formula should provide for automatic COLA increases.

(42) Proxy Voting Form:

The proxy form is a Provincially prescribed form. In order to have a proxy form certified, the elector being appointed as proxy must attend at the Clerk's office. However, the elector making the appointment is not required to so attend. Occasionally, there is a need for City staff to contact the elector making the appointment to clarify information on the form. This task would be easier if the form captured the telephone number of the person.

It is suggested that section 9 of Ontario Regulation 101/97 be amended to include on the proxy form the telephone number of the elector making the proxy.

(43) List of Residential Tenants:

Section 16.1 of the *Assessment Act* requires owners of property with seven or more units to provide the Ontario Property Assessment Corporation (OPAC) with a list of the residential tenants of the building on or before July 31 in each year. This is intended to assist OPAC in identifying eligible electors. However, in an election year OPAC is

required to provide the Clerk with the preliminary list of electors on July 31, meaning that list will not include the most recent update of the tenant information. To provide a more accurate list of electors, this date should be moved to earlier in the year so that the information from the most recent update is captured in the list of electors.

It is suggested that the Minister of Finance be requested to amend section 16.1 of the *Assessment Act* to move the date for property owners to provide a listing of the residential tenants of buildings from July 31 back to May 31.

Conclusion:

The suggested amendments in this report will improve election administration and enhance customer service. Legal Division staff have been consulted on the proposed amendments contained in this report.

The amendments should be forwarded on to the Minister of Municipal Affairs and Housing and the Minister of Finance for their consideration as soon as possible.

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Appendix "A"

Section No.	Text – Municipal Elections Act, 1996
5	Voting Day – Monday, November 13, 2000
<i>[recommendation previously approved by Council]</i>	Voting day in a regular election is the second Monday in November, subject to section 10.
6 (1)	Three-year term
<i>[recommendation previously approved by Council]</i>	The term of all offices to which this Act applies is three years, beginning on December 1 in the year of a regular election.

Section No.	Text – Municipal Elections Act, 1996
8 (1) <i>[recommendation number (1)]</i>	By-law-Question – Submission - municipal council The council of a municipality may pass a by-law to submit to its electors: (a) a proposed by-law requiring their assent; (b) a question not otherwise authorized by law but within the council's jurisdiction.
15 (2) <i>[recommendation number (2)]</i>	Delegation The clerk may delegate to a deputy returning officer or other election official any of the clerk's powers and duties in relation to an election, as he or she considers necessary.
16 (1) <i>[recommendation number (3)]</i>	Scrutineer - at election of candidate A candidate may appoint scrutineers to represent him or her during voting and at the counting of votes, including a recount.
17 (2) <i>[recommendation number (4)]</i>	Qualification of electors A person is entitled to be an elector at an election held in a local municipality if he or she, (a) at any time during the qualification period, (i) resides in the local municipality, or (ii) is the owner or tenant of land there, or the spouse of such a person; and (b) on voting day, (i) is a Canadian citizen, (ii) is at least 18 years old, and (iii) is not prohibited from voting under subsection (3) or otherwise by law.
22 <i>[recommendation number (5)]</i>	Preliminary list – correction of errors The clerk may correct any obvious error in the preliminary list and shall notify the assessment commissioner of the corrections.
24 (3) <i>[recommendation number (6)]</i>	Application – change – approved If satisfied that the applicant is entitled to have the requested change made, the clerk shall, (a) endorse the application to indicate approval; and (b) return the endorsed application to the applicant.

Section No.	Text – Municipal Elections Act, 1996
25 <i>[recommendation number (7)]</i>	Application – removal of another's name During the period that begins on the Tuesday after Labour Day and ends on nomination day, a person may make an application to the clerk requesting that another person's name be removed from the voters' list.
31 <i>[recommendation number (8)]</i>	Nomination day – Friday, October 13, 2000 Nomination day for a regular election is Friday, the 31st day before voting day.
33 (2) <i>[recommendation number (9)]</i>	Nomination – formal requirements The nomination shall, (a) be in the prescribed form; (b) be accompanied by a consent to the nomination and a declaration of qualification, both in the prescribed form, signed by the person being nominated; and (c) be accompanied by the prescribed nomination filing fee.
34 <i>[recommendation number (10)]</i>	Nomination filing fee – refund A candidate is entitled to receive a refund of the nomination filing fee if he or she, (a) withdraws the nomination under section 36; (b) is elected to the office; or (c) receives more than the prescribed percentage of the votes cast in the election for the office.
36 <i>[recommendation number (11)]</i>	Nomination – withdrawal A person may withdraw his or her nomination by filing a written withdrawal in the clerk's office, (a) before 5 p.m. on the Monday following nomination day, if the person was nominated on or before nomination day; (b) before 5 p.m. on the Thursday following nomination day if the person was nominated under subsection 33 (5).

Section No.	Text – Municipal Elections Act, 1996
<p>39</p> <p><i>[recommendation number (12)]</i></p>	<p>Death of Candidate – procedure</p> <p>If a certified candidate dies before the close of voting on voting day,</p> <p>(a) if no candidate would be elected by acclamation as a result of the death, the election shall proceed as if the deceased candidate had not been nominated, and the clerk shall omit the deceased candidate's name from the ballots or, if they have already been printed, shall cause notice of the candidate's death to be posted in every voting place;</p> <p>(b) if another candidate would be elected by acclamation as a result of the death, the election is void and a by-election shall be held to fill the office.</p>
<p>42 (4)</p> <p><i>[recommendation numbers (13) and (14)]</i></p>	<p>Conflict – procedure</p> <p>The procedures and forms established by the clerk, if they are consistent with the principles of this Act, prevail over anything in this Act and the regulations made under it.</p>
<p>44 (2)</p> <p><i>[recommendation number (15)]</i></p>	<p>Voting Proxy – restrictions</p> <p>A person shall not,</p> <p>(a) appoint more than one voting proxy;</p> <p>(b) act as a voting proxy for more than one other person.</p>
<p>44 (3)</p> <p><i>[recommendation number (15)]</i></p>	<p>Voting Proxy – relatives</p> <p>The restriction in clause (2) (b) does not apply if the proxy and the other person are spouses or siblings of each other, parent and child, or grandparent and grandchild.</p>
<p>44 (4)</p> <p><i>[recommendation number (16)]</i></p>	<p>Voting Proxy – time</p> <p>The appointment of a voting proxy may be made only after nomination day, and does not remain in force after voting day.</p>

Section No.	Text – Municipal Elections Act, 1996
<p>44 (5)</p> <p><i>[recommendation number (17)]</i></p>	<p>Application for clerk's certificate</p> <p>A person who has been appointed a voting proxy shall,</p> <p>(a) complete an application in the prescribed form, including a statutory declaration that he or she is the person appointed as a voting proxy; and</p> <p>(b) present the application and the appointing document to the clerk at the clerk's office, in person.</p>
<p>45 (4)</p> <p><i>[recommendation number (18)]</i></p>	<p>Space - in certain buildings</p> <p>A person or body to whom this subsection applies shall on the clerk's request, made at least 14 days before voting day, provide a space for use as a voting place, free of charge.</p>
<p>47 (1)</p> <p><i>[recommendation number (19)]</i></p>	<p>Voting Place - who may remain in</p> <p>No person shall remain in a voting place when the vote is being taken or the votes are being counted except,</p> <p>(a) the clerk and the deputy returning officer and any other election official appointed for the voting place;</p> <p>(b) a certified candidate;</p> <p>(c) one scrutineer appointed by each certified candidate for each ballot box in use at the voting place;</p> <p>(d) the scrutineers appointed by a municipality in relation to a by-law or question; and</p> <p>(e) the scrutineers appointed by a local board or the Minister in relation to a question.</p>

Section No.	Text – Municipal Elections Act, 1996
<p>47 (5)</p> <p><i>[recommendation number (19)]</i></p>	<p>Candidates – scrutineers – rights</p> <p>The persons described in clauses (1) (b), (c), (d) and (e) are each entitled,</p> <ul style="list-style-type: none"> (a) to be present when materials and documents related to the election are delivered to the clerk under subclause 43 (5) (b) (ii) and clause 55 (1) (d); (b) to enter the voting place 15 minutes before it opens and to inspect the ballot boxes and the ballots and all other papers, forms and documents relating to the vote (but not so as to delay the timely opening of the voting place); (c) to place his or her own seal on the ballot box, immediately before the opening of the voting place, so that ballots can be deposited to the box and cannot be withdrawn without breaking the seal; (d) to place his or her own seal on the ballot box immediately after the close of voting on each day of an advance vote under section 43, so that ballots cannot be deposited or withdrawn without breaking the seal; (e) to examine each ballot as the votes are being counted by the deputy returning officer under section 54 (but not to touch the ballot); (f) to object to a ballot or to the counting of votes in a ballot under subsection 54 (3); (g) to sign the statement of the results of the election prepared by the deputy returning officer under clause 55 (1) (a); and (h) to place his or her own seal on the ballot box after the counting of the votes, when the deputy returning officer seals the box under clause 55 (1) (c), so that ballots cannot be deposited or withdrawn without breaking the seal.
<p>48 (2)</p> <p><i>[recommendation number (20)]</i></p>	<p>Campaign material – prohibited</p> <p>Without limiting the generality of subsection (1), no person shall display a candidate’s election campaign material or literature in a voting place.</p>

Section No.	Text – Municipal Elections Act, 1996
<p>52 (3)</p> <p><i>[recommendation number (21)]</i></p>	<p>Ballot – marking</p> <p>On receiving the ballot from the deputy returning officer, the elector shall,</p> <ul style="list-style-type: none"> (a) make a cross or other mark on the ballot, within the space to the right of the name of each candidate for whom the elector wishes to vote (or in the case of a by-law or question, to the right of the answer for which he or she wishes to vote); (b) fold the ballot in a manner that conceals the face; and (c) return the folded ballot to the deputy returning officer.
<p>55(1)</p> <p><i>[recommendation number (22)]</i></p>	<p>Statement – ballot box – delivery to the clerk</p> <p>As soon as possible after counting the votes, the deputy returning officer shall,</p> <ul style="list-style-type: none"> (a) prepare a statement, in duplicate, showing the results of the election at the voting place; (b) place the ballots and all other materials and documents related to the election, except the original statement of results, in the ballot box;
<p>56 (2)</p> <p><i>[recommendation number (23)]</i></p>	<p>Tied vote - time for recount</p> <p>The recount shall be held within 10 days after the clerk's declaration of the results of the election.</p>

Section No.	Text – Municipal Elections Act, 1996
<p>57 (1)</p> <p><i>[recommendation number (24)]</i></p>	<p>Municipality – local board – Minister</p> <p>Within 30 days after the clerk’s declaration of the results,</p> <ul style="list-style-type: none"> (a) the council of a municipality may pass a resolution requiring a recount of the votes cast, <ul style="list-style-type: none"> (i) for all or specified candidates for an office on the council, (ii) for all or specified answers to a question submitted by the council; (b) a local board may pass a resolution requiring a recount of the votes cast, <ul style="list-style-type: none"> (i) for all or specified candidates for an office on the local board, or (ii) for all or specified answers to a question submitted by the local board; (c) the Minister may make an order requiring a recount of the votes cast for all or specified answers to a question submitted by him or her.
<p>57 (2)</p> <p><i>[recommendation number (25)]</i></p>	<p>Municipal – local board - Minister – time for recount</p> <p>The clerk shall hold a recount in accordance with the resolution or order, within 10 days after it is passed or made.</p>
<p>58 (4)</p> <p><i>[recommendation number (26)]</i></p>	<p>Application – time for recount</p> <p>The recount shall be held within 10 days after the day the clerk receives a copy of the order.</p>

Section No.	Text – Municipal Elections Act, 1996
<p>65 (4) 1.</p> <p><i>[recommendation number (27)]</i></p>	<p>Rules - by-election to office</p> <p>If a by-election is to be held for an office, the following rules apply:</p> <p>(1) The clerk shall fix the date of nomination day, to be a day not more than 30 days after,</p> <ul style="list-style-type: none"> (i) a court orders a by-election, (ii) the council of the clerk's municipality passes a by-law indicating a by-election is required, or the clerk receives a copy of such a by-law from another municipality whose elections he or she is responsible for conducting, (iii) the clerk receives from a local board whose elections he or she is responsible for conducting a copy of a resolution indicating a by-election is required, (iv) the Minister orders a by-election under section 48 of the <i>Municipal Act</i>, (v) a candidate dies under the circumstances described in clause (b) of section 39, or (vi) the last acclamations are declared under section 37, if the by-election is required by subsection 37 (3) or (4).
<p>65 (4) 4.</p> <p><i>[recommendation number (28)]</i></p>	<p>Rules – by-election to office</p> <p>The voter' list shall be prepared as follows:</p> <ul style="list-style-type: none"> (i) the clerk shall notify the assessment commissioner that a by-election is required. (ii) the assessment commissioner shall, before nomination day, give the clerk the preliminary list or the part of it that is required for the by-election, updated to the date he or she received the clerk's notice, (iii) the clerk shall make corrections to the preliminary list under section 22 as soon as possible after receiving the list, and (iv) the corrected list constitutes the voters' list.
<p>65 (4) 5.</p> <p><i>[recommendation number (29)]</i></p>	<p>Rules - by-election to office</p> <p>Applications to revise the voters' list may be made under section 24 or 25 during the period that begins when the clerk has made corrections as described in subparagraph iii. of paragraph 4 and ends at the close of voting on voting day.</p>
<p>68 (1) 2.</p> <p><i>[recommendation number (30)]</i></p>	<p>Election campaign period – determination</p> <p>(2) The election campaign period ends on December 1 in the case of a regular election and 15 days after voting day in the case of a by-election.</p>

Section No.	Text – Municipal Elections Act, 1996
68 (1) 4. <i>[recommendation number (31)]</i>	Election campaign period – determination (4) Despite rules 2 and 3, if the candidate has a deficit at the time the election campaign period would otherwise end, it continues until the earliest of the following: (i) the day further contributions eliminate the deficit, (ii) the day he or she is nominated in a subsequent election for an office on the same council or local board in respect of which the deficit was incurred, (iii) the day the candidate notifies the clerk in writing that he or she will not accept further contributions.
77 (a) <i>[recommendation numbers (32) and (33)]</i>	Filing dates – reporting periods For the purposes of sections 66 to 82, (a) the filing date is, (i) in the case of a regular election, the following January 31,
78 (2) <i>[recommendation numbers (32) and (33)]</i>	Financial statement – auditor’s report – supplementary If the candidate’s election campaign period continues during all or part of a supplementary reporting period, he or she shall, on or before the corresponding supplementary filing date, file a supplementary financial statement and auditor’s report for the supplementary reporting period.
78 (3) <i>[recommendation number (34)]</i>	Financial statement – auditor’s report - previous – update A supplementary financial statement or auditor’s report shall update the previous statement or report filed under this section, as the case may be, to reflect the changes to the candidate’s election campaign finances during the supplementary reporting period.
80 (1) (b) <i>[recommendation number (35)]</i>	Penalties – additional – applicable circumstances A candidate is subject to the penalties listed in subsection (2), in addition to any other penalty that may be imposed under this Act, is, (b) a document filed under section 78 shows a surplus, as described in section 79, and the candidate fails to pay the amount required by section 79 to the clerk by the relevant date; or
80 (3) <i>[recommendation number (36)]</i>	Default – notice by clerk Within five days after a default described in subsection (1), the clerk with whom the candidate’s nomination was filed shall send a notice of the default to the candidate and to the relevant council or local board, by registered mail.

Section No.	Text – Municipal Elections Act, 1996
80 (6) <i>[recommendation number (37)]</i>	Penalties – application - to court The candidate may, on or before the 11th day after the notice is mailed, apply to the Ontario Court (Provincial Division) for a declaration that the penalties do not apply to him or her.
81 (3) <i>[recommendation number (38)]</i>	Compliance audit – application - decision on Within 30 days after receiving the application, the council or local board, as the case may be, shall consider the application and decide whether it should be granted or rejected.
81 (10) <i>[recommendation number (38)]</i>	Compliance audit – consideration - legal proceeding The council or local board shall consider the report within 30 days after receiving it and may commence a legal proceeding against the candidate for any apparent contravention of a provision of this Act relating to election campaign finances.
<i>[recommendation number (39)]</i>	no current provisions in the <i>Act</i>

Section No.	Text – Ontario Regulation 101/97
1 (1) <i>[recommendation number (40)]</i>	For the purposes of clause 33 (2) (c) of the Act, the prescribed nomination filing fee is \$100.
5 <i>[recommendation number (41)]</i>	The following formulas are prescribed for the purpose of subsection 76(4) of the Act (maximum amount of expenses): (1) In the case of a candidate for the office of head of council of a municipality, the amount shall be calculated by adding together, (i) \$5,500, and (ii) 50 cents for each elector entitled to vote for the office. (2) In the case of a candidate for another office, the amount shall be calculated by adding together, (i) \$3,500, and (ii) 50 cents for each elector entitled to vote for the office.
9 <i>[recommendation number (42)]</i>	An appointment of voting proxy, declaration of voting proxy, clerk's certificate and oath of voting proxy shall be in Form 3.

Section No.	Text - Assessment Act
<p>16.1</p> <p><i>[recommendation number (43)]</i></p>	<p>For the purposes of section 15 and 16, on or before July 31 in each year, every owner of a property with seven or more self-contained residential units shall provide the assessment corporation with the information described in subsection (2).</p> <p>The information referred to in subsection (1) is the names and unit numbers of the persons who, during the 12-month period that ends with, and includes, July 1 in the year in which the information is provided,</p> <ul style="list-style-type: none"> (a) have become residential tenants of the property; (b) have ceased to be residential tenants of the property; or (c) have continued to be residential tenants of the property but have changed units.