



STAFF REPORT ACTION REQUIRED

Election Administration By-laws – Updated Report (Bill 212)

Date:	November 16, 2009
To:	Executive Committee
From:	City Clerk
Wards:	All
Reference Number:	

SUMMARY

It is recommended that Council enact by-laws establishing the dates and times for the advance votes and a formula to select the languages that certain election information will be available in. The advance votes dates and times by-law is a mandatory by-law that Council must pass. The language by-law is a permissive by-law. Copies of the proposed bills are set out in the appendices to this report.

The proposed amendments to the *Municipal Elections Act, 1996* contained in Bill 212 (*Good Government Act, 2009*) will, if enacted, change voting day from November 8, 2010 to October 25, 2010. As Council will not be meeting again prior to the opening of nominations on January 4, 2010, the Clerk is recommending two possible sets of dates for advance votes, dependent upon whether Bill 212 is enacted or not. This will permit staff to include the appropriate dates in the Candidate's Guide whether or not Bill 212 is passed.

The City Clerk recommends that the by-law establishing a language formula be applicable to all regular municipal elections and by-elections in the City of Toronto, not just the 2010 election. The by-law establishing the dates and times of the advance votes will apply to the 2010 election only.

RECOMMENDATIONS

The City Clerk recommends that:

1. City Council authorize the dates and times for the 2010 election advance votes as follows:
 - a. If Bill 212 is not enacted by the Ontario Legislature:
 - i. Weekdays from Wednesday, October 20, 2010 to Friday, October 22, 2010 inclusive and Monday, October 25, 2010 to Wednesday, October 27, 2010, inclusive from 10:00 a.m. to 6:00 p.m.;
 - ii. Saturday, October 30, 2010, from 10:00 a.m. to 6:00 p.m.; and
 - iii. Sunday, October 31, 2010, from 10:00 a.m. to 6:00 p.m.
 - b. If Bill 212 is enacted by the Ontario Legislature:
 - i. Weekdays from Tuesday, October 5, 2010 to Friday, October 8, 2010 inclusive and Tuesday, October 12, 2010 to Wednesday, October 13, 2010, inclusive from 10:00 a.m. to 6:00 p.m.;
 - ii. Saturday, October 16, 2010, from 10:00 a.m. to 6:00 p.m.; and
 - iii. Sunday, October 17, 2010, from 10:00 a.m. to 6:00 p.m.
 - c. the City Solicitor be authorized to submit the appropriate bill once any amendments have been made to the *Municipal Elections Act, 1996* by Bill 212;
2. City Council authorize elector information to be made available during regular municipal elections and by-elections in those languages which the most recent available Statistics Canada data shows was spoken and understood in the home by at least 2 percent of a ward's population, substantially in the form of the draft bill attached as Appendix 'C' to this report;
3. City Council direct that voting places shall open at 10:00 a.m. on voting day.
4. City Council direct that institutional voting places, as described in subsection 46(3) of the *Municipal Elections Act, 1996*, be open for the full voting day; and
5. Council authorize and direct the appropriate City Officials to take the necessary action to give effect thereto, including the introduction of any bills.

Financial Impact

If Council adopts the recommendations as stated, there are no financial implications arising from this report. However, if Council amends any of the recommendations, there may be additional costs depending on the nature of the amendment.

The Deputy City Manager and Chief Financial Officer has reviewed this report and concurs with the financial implications.

DECISION HISTORY

This is a revised version of a report originally submitted to the Executive Committee as item EX34.5 on September 8, 2009 and deferred by the Committee. This report has been updated to reflect the impact of proposed amendments to the *Municipal Elections Act, 1996*, contained in Bill 212 (*Good Government Act, 2009*), currently before the Ontario Legislature.

COMMENTS

The *Municipal Elections Act, 1996* (the *Act*) altered the manner in which elections were to be administered, from a process strictly mandated by the legislation to one where the municipality has the flexibility to tailor certain elements of the election to suit the particular needs of the municipality.

The *Act* assigns the decision-making role to Council for those areas or activities that necessitate political accountability (e.g., the number of advance vote days) or that involve the spending of public funds (e.g., the establishment of a contribution rebate program).

This report addresses certain mandatory (advance vote dates and times) and permissive by-laws (languages) Council may enact for a municipal election. In preparing this report, staff analysed the impact of the by-laws enacted by Council for the 2006 municipal election process. Staff also consulted with Members of Council, candidates and other stakeholders to obtain feedback on their 2006 municipal election experience.

Historically, Council has enacted by-laws for each separate election and by-election. Staff are recommending that the by-law establishing a language formula be applicable to all regular municipal elections and by-elections in the City of Toronto, not just the 2010 election. This would not preclude Council from amending the language by-law for a subsequent election should Council determine it appropriate to do so.

This will give certainty to electors and potential candidates well in advance of the start of an election period. It will also allow staff to quickly prepare the necessary elector and candidate materials in the event of a by-election.

The by-law establishing the dates and times of the advance votes will apply to the 2010 election only.

If enacted in its current form, Bill 212 (*Good Government Act, 2009*), currently before the Legislature, will change voting day from Monday, November 8, 2010 to Monday, October 25, 2010. It will be necessary to adjust the dates of the advance votes if Bill 212, in its current form, is enacted by the Legislature. As Council will not be meeting again prior to the opening of nominations on January 4, 2010, the Clerk is recommending two possible sets of dates for advance votes, dependent upon whether Bill 212 is enacted. This will permit staff to include the appropriate dates in the Candidate's Guide if Bill 212 is passed in December.

This report has been prepared in consultation with Legal Services.

Separate reports on the election campaign finance by-laws and the establishment of a compliance audit committee, updated to show the impacts of Bill 212, are also before the Committee at this time.

1. Advance Votes

Subsection 43(1) of the *Act* requires Council to pass a by-law establishing one or more days for advance votes and the hours during which voting places shall be open on those dates. This is a mandatory by-law which City Council must pass. This by-law must be passed at least 30 days before voting day.

For the 2006 election, Council enacted a by-law to provide for advance votes as follows:

- (a) weekday advance votes were held on Monday through Friday from October 23, 2006 to November 1, 2006 from 10:00 a.m. to 6:00 p.m.; and
- (b) weekend advance votes were held at one location in each of the 44 wards on Saturday, November 4, 2006 and Sunday, November 5, 2006, from 10:00 a.m. to 6:00 p.m.

A total of 42,413 electors voted during the 2006 advance voting – 8,367 during the weekday advance voting and 34,046 during the weekend advance voting. This represents 7.095 percent of the overall number of voters who voted in the 2006 election (597,754). Table 1 compares the number of advance voters between the 2003 and 2006 election.

Table 1 – Advance Vote Voters – 2003 vs. 2006

	2003 Election	% of Total Number of Voters in 2003 (699,492)	2006 Election	% of Total Number of Voters in 2006 (597,754)
Weekday	10,899	1.558%	8,367	1.399%
Weekend	31,700	4.531%	34,046	5.695%
Total	42,599	6.089%	42,413	7.095%

While the number of voters choosing to vote during the advance vote remained about the same, more are doing so during the weekend advance vote, on Sunday in particular. Table 2 compares the daily turnout of the 2003 and 2006 weekend advance voting:

Table 2 – Comparison of Daily Ward Advance Vote Voters – 2003 vs. 2006

2003 Election			2006 Election			% Change Day 1	% Change Day 2	% Change Total
Day 1 Saturday	Day 2 Sunday	Total	Day 1 Saturday	Day 2 Sunday	Total			
16,581	15,119	31,700	16,341	17,705	34,046	1.4%	17.1%	7.4%

The days and times of the 2006 advance votes worked very well. It is recommended that the dates and times for the advance votes for the 2010 election be designated as follows if Bill 212 is not enacted by the Legislature:

- a. weekday advance votes, Wednesday, October 20, 2010 to Friday, October 22, 2010, and Monday, October 25, 2010 to Wednesday, October 27, 2010, from 10:00 a.m. to 6:00 p.m.;
- b. weekend advance votes at one location in each of the 44 wards on Saturday, October 30, 2010 and Sunday, October 31, 2010, from 10:00 a.m. to 6:00 p.m.

If Bill 212 is enacted, voting day will change to Monday, October 25, 2010. It is recommended that the dates and times for the advance votes for the 2010 election be designated as follows if Bill 212 is enacted by the Legislature:

- a. weekday advance votes, Tuesday, October 5, 2010 to Friday, October 8, 2010, and Tuesday, October 12, 2010 to Wednesday, October 13, 2010, from 10:00 a.m. to 6:00 p.m.;
- b. weekend advance votes at one location in each of the 44 wards on Saturday, October 16, 2010 and Sunday, October 17, 2010, from 10:00 a.m. to 6:00 p.m.

Draft bills are attached as Appendix ‘A’ and Appendix ‘B’. The City Solicitor will submit the appropriate bill when the Legislature has dealt with Bill 212 and the date for the 2010 municipal election is known.

2. Languages

It is recommended that Council authorize the provision of elector information for regular municipal elections and by-elections in those home languages that are spoken by at least two percent of the population in a ward based on the most recent and available Statistics Canada data as it did in 2006. In the case of a ward by-election, the languages selected would be those spoken by at least two percent of that ward’s population. This is a permissive by-law that may be passed by City Council. (Home language is defined as the language spoken most often or on a regular basis at home.) A draft bill is attached as Appendix ‘C’.

Subsection 9(2) of the *Act* authorizes Council to pass a by-law authorizing the use of French in prescribed forms (e.g. the ballot) and French and/or other languages for notices, non-prescribed forms and any other information provided under the *Act*. Section 9.1 of

the *Act* requires the City Clerk to provide French translation of notices, forms and other information with respect to the election for the trustees of the City's two French language school boards.

For the 2006 municipal election, election information was translated into seventeen home languages – Arabic, Chinese (Cantonese and Mandarin), French, Greek, Italian, Korean, Farsi (Persian), Polish, Portuguese, Punjabi, Russian, Spanish, Ukrainian, Urdu, Tagalog, Tamil and Vietnamese.

Using a formula allows for languages spoken in concentrated areas of the City and provides for the demographic changes that occur over time. For example, given the demographic changes between the 2001 and 2006 census data, an additional five languages now fall within the two percent criteria: Bengali, Gujarati, Romanian, Serbian and Somali. This will bring the total number of languages requiring translated materials to twenty-two.

It is recommended that elector information provided by the City Clerk (e.g. voting instructions in the voting places and the election tabloid delivered to all households in the City) be made available in those languages that meet the two percent criteria.

3. Voting Hours

It is recommended that voting hours on election day be 10 a.m. to 8 p.m. as provided for in the *Act*. While Council may authorize an earlier opening, it is not recommended for the following reasons:

- a. based on the number of hours voting place staff are already required to work (minimum of 13 hours), it is not feasible to open earlier;
- b. the majority of Toronto's electors (45%) choose to vote in the last three hours;
- c. every additional hour that the voting places are open cost the City an additional \$215,000 based upon the 2010 election pay rates; and
- d. early voting has been attempted in other jurisdictions (e.g. Edmonton, Chicago and Houston) with limited success.

4. Voting Hours in Institutions

For the 2010 election, it is recommended that the City maintain the same level of service as in the 2000, 2003 and 2006 elections and have institutional voting places open for the full voting day (10:00 a.m. to 8:00 p.m.).

The power to pass a by-law authorizing reduced hours of voting for those voting places located in institutions (i.e. nursing and retirement homes) is provided in subsection 46(3) of the *Act*. Beginning with the 2000 election, Council decided against reducing the hours of voting for institutional voting places. This ensures that electors living in these facilities are treated in the same manner as other City electors.

CONTACT

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SIGNATURE

Ulli S. Watkiss

City Clerk

ATTACHMENTS

Appendix ‘A’ – draft bill to establish the dates and times of advance votes for the 2010 election if Bill 212 is not enacted by the Legislature

Appendix ‘B’ – draft bill to establish the dates and times of advance votes for the 2010 election if Bill 212 is enacted by the Legislature

Appendix ‘C’ – draft bill to authorize the use of languages other than English in certain materials for any regular election or by-election

Appendix 'A'

Dates and Times of Advance Votes if Bill 212 is not Enacted

CITY OF TORONTO

BY-LAW No. _____

To establish the dates and times of advance votes for the 2010 municipal election.

WHEREAS subsection 43(1) of the *Municipal Elections Act, 1996*, as amended, requires Council to, by by-law, establish the dates and times for an advance vote;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Advance votes for the 2010 municipal election shall be held on the following dates and during the following hours:

- (a) Weekdays from Wednesday, October 20, 2010 to Friday, October 22, 2010 inclusive and Monday, October 25, 2010 to Wednesday, October 27, 2010, inclusive from 10:00 a.m. to 6:00 p.m.;
- (b) Saturday, October 30, 2010, from 10:00 a.m. to 6:00 p.m.; and
- (c) Sunday, October 31, 2010, from 10:00 a.m. to 6:00 p.m.

ENACTED AND PASSED this ____ day of _____, A.D. 2009.

DAVID MILLER
Mayor

ULLI S. WATKISS
City Clerk

Appendix 'B'

Dates and Times of Advance Votes if Bill 212 is Enacted

CITY OF TORONTO

BY-LAW No. _____

To establish the dates and times of advance votes for the 2010 municipal election.

WHEREAS subsection 43(1) of the *Municipal Elections Act, 1996*, as amended, requires Council to, by by-law, establish the dates and times for an advance vote;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Advance votes for the 2010 municipal election shall be held on the following dates and during the following hours:

- (a) Weekdays from Tuesday, October 5, 2010 to Friday, October 8, 2010 inclusive and Tuesday, October 12, 2010 to Wednesday, October 13, 2010, inclusive from 10:00 a.m. to 6:00 p.m.;
- (b) Saturday, October 16, 2010, from 10:00 a.m. to 6:00 p.m.; and
- (c) Sunday, October 17, 2010, from 10:00 a.m. to 6:00 p.m.

ENACTED AND PASSED this ____ day of _____, A.D. 2009.

DAVID MILLER
Mayor

ULLI S. WATKISS
City Clerk

Appendix 'C'

**CITY OF TORONTO
BY-LAW No. _____**

To authorize the use of languages other than English in notices, forms (other than prescribed forms) and other information for regular municipal election and by-elections in the City of Toronto.

WHEREAS subsection 9(2) of the *Municipal Elections Act, 1996*, as amended, provides, among other things, that a municipal council may pass a by-law allowing the use of French, other languages other than English, or both, in notices, forms (other than prescribed forms), and other information provided under the Act; and

WHEREAS Council wishes to allow election information to be made available to electors in any language which the most recent and available Statistics Canada data shows was spoken and understood in the home by at least two percent of a ward's population at the time of the census;

The Council of the City of Toronto HEREBY ENACTS as follows:

- 1.** Election information provided to electors under the *Municipal Elections Act, 1996* for a regular municipal election or a City-wide by-election may be prepared in any language which the most recent and available Statistics Canada data shows was spoken and understood in the home by at least two percent of a ward's population at the time of the census.
- 2.** Election information provided to electors under the *Municipal Elections Act, 1996* for a ward by-election may be prepared in any language which the most recent and available Statistics Canada data shows was spoken and understood in the home by at least two percent of that ward's population at the time of the census.

ENACTED AND PASSED this ____ day of _____, A.D. 2009.

DAVID MILLER
Mayor

ULLI S. WATKISS
City Clerk