

**A comparison of Outstanding Requested Amendments to the *Municipal Elections Act, 1996*,
the *Assessment Act* and Ontario Regulation 101/97 against Bill 212**

No.	Outstanding Requested Amendments to the <i>Municipal Elections Act, 1996</i> , the <i>Assessment Act</i> and Ontario Regulation 101/97	Bill 212
1.	to move the municipal election date to the Thursday after Thanksgiving in an election year	This recommendation was addressed in Bill 212 as follows: Voting day in regular elections will be moved from the second Monday in November (November 8) to the fourth Monday in October (October 25).
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”	This recommendation was not addressed in Bill 212. However, this was a request for clarification and does not impact the Clerk’s ability to delegate powers or duties during an election.
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”	This recommendation was not addressed in Bill 212. However, this was a request to clarify that “candidate” means “certified candidate” in this subsection.
4.	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”	This recommendation was not addressed in Bill 212. However, section 22 of the proposed Act will allow the Clerk to use additional sources of information that is the municipality’s custody to correct the preliminary list of electors.
5.	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	This recommendation was not addressed in Bill 212.
6.	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	This recommendation was not addressed in Bill 212. However, section 36 of the proposed Act changes the time for filing nominations from 5 p.m. on nomination day to 2 p.m.
7.	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	This recommendation was not addressed in Bill 212. Instead, section 39 of the Act adds that when a candidate becomes ineligible, the same rules apply as when a candidate dies. If amended, this subsection would provide that in the event of a death or ineligibility of a certified candidate, and if no other

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		candidate is elected by acclamation, the election shall proceed as if the candidate had not been nominated, and the clerk shall omit that candidate's name from the ballots. However, if another candidate would be elected by acclamation, as a result of the death or ineligibility, the election is void and a by-election shall be held to fill the office.
8.	the principles (as set out by the Who Does What Panel) should be included in the <i>MEA</i> . 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”	This recommendation was not addressed in Bill 212. The section currently says that the procedures and forms prevail “if they are consistent with the principles if this Act”. The Act does not articulate the principles.
9.	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	This recommendation was not addressed in Bill 212. However, the amendments provided a point of clarification regarding procedures for the use of vote counting equipment during a recount. The Clerk can include in her procedures that if there is a recount that the applicant, candidate, scrutineer or lawyer are not entitled to examine each ballot as the votes are being counted
10.	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	This recommendation was not addressed in Bill 212.
11.	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).	This recommendation was not addressed in Bill 212.
12.	clause 55(1)(b) be amended to exclude the voters’ list from placement in the ballot box	This recommendation was not addressed in Bill 212.
13.	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	This recommendation was not addressed in Bill 212.
14.	section 9 of Ontario Regulation 101/97 be amended to include on the proxy form the telephone number of the elector making the proxy	Regulations are not yet available, however, in discussions with Ministry staff a decision has not been made whether the proxy form will be amended.

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15.	section 16.1 of the <i>Assessment Act</i> 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. The goal of this request was to improve accuracy of the voters' list.	This recommendation was not addressed in Bill 212. However, section 19 of the Act provides for the following changes with respect to the voters' list which are intended to improve the accuracy of the list. The Municipal Property Assessment Corporation (MPAC) will have access to vital statistics records in preparation of the preliminary list of electors. In addition, the Clerk can access a wider range of databases for use in correcting obvious errors on the preliminary list and request the preliminary list of electors be delivered at a date that is agreeable to both the clerk and MPAC.
16.	to provide that contributions to all candidates for councillor by an individual be limited to \$5,000 with a maximum of \$750 to any one candidate and to \$2,500 for all candidates for the office of head of a municipality with a maximum of \$2,500 to any one candidate	This recommendation was addressed in Bill 212 as follows: Section 71 of the Act is amended by adding that a contributor shall not make contributions exceeding a total of \$5,000 to two or more candidates for office on the same council or local board.
17.	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	This recommendation was not address in Bill 212. However, under Bill 212 Council will no longer consider requests for a compliance audit rather Council will be required to establish a compliance audit committee before October 1 of an election year. If Bill 212 passes in its current form, the 30 day period would be retained.
18.	review the issue of third party campaigning and make any necessary amendments to the <i>MEA</i> that would impose on these individuals the same accountability and spending limits as candidates have	This recommendation was not addressed in Bill 212.
19.	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	Regulations are not yet available, however, in discussions with Ministry staff, it is not expected that there will be a change in the nomination filing fee.
20.	section 5 of Ontario Regulation 101/97 be amended to provide that the spending limit	Regulations are not yet available; however, the Minister has signalled his intention to change the

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	<p>for candidates for Councillors be increased to \$3,500.00 base and \$0.96 cents per elector and that the spending limit figures for candidates are adjusted every three years based on the Consumer Price Index</p> <p>NOTE – The Minister of Municipal Affairs and Housing did amend the regulation for the 2006 election to provide for a \$5,000 base plus \$0.70 per elector.</p>	<p>spending limit from 70 cents per elector to 85 cents per elector.</p>
21.	<p>the nomination filing fee be refunded only if the candidate receives 15 percent of the votes</p>	<p>This recommendation was not addressed in Bill 212. Under the current regulations, a candidate is entitled to receive a refund of the nomination filing fee if he or she receives more than 2 per cent of the votes cast in the election for office.</p>
22.	<p>to expand the role of the City Clerk respecting the financial filing requirements of candidates</p>	<p>This recommendation was not addressed in Bill 212.</p>
23.	<p>to provide that contributions of goods and services must be reported and properly receipted as campaign contributions using provincial laws as the standard</p>	<p>This recommendation was not addressed in Bill 212. However, the Act currently requires receipts for and reporting of contributions of goods and services.</p>
24.	<p>to require that surpluses become the property of the municipality if they are not used in the election for which they were raised, and that the application of this policy not be retroactive, but be on a ‘go-forward’ basis</p>	<p>This recommendation was addressed in Bill 212 as follows:</p> <p>Candidate campaign surpluses will become the property of the municipality, but will be available to candidates for expenses related to recounts, election-related court proceedings and compliance audits. If surplus funds are not used for these purposes, they become the property of the municipality and cannot be carried forward by the candidate to use in the next election.</p> <p>This amendment is not retroactive, therefore, any candidates who turned over to the Clerk a surplus from the 2006 election and did not participate in the rebate program will have their surplus returned upon filing their nomination papers for the 2010 election.</p>
25.	<p>to include the necessary statutory provisions to clarify the intent of the Act that a person shall not raise money or incur expenses in connection with an election until such time as that person has filed a nomination paper</p>	<p>This recommendation was not addressed in Bill 212.</p>

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26.	to treat the replacement cost of election signs or other election materials that have been vandalized, stolen and/or destroyed and are subject to a police report, as an expense not subject to the spending limit for the office	This recommendation was not addressed in Bill 212.
27.	to permit fund-raising expenses up to an amount equal to the spending limit for the office to be an expense; (so as to change spending limits from 25 percent to 100 percent)	This recommendation was not addressed in Bill 212. However, Bill 212 provides a new definition for fund-raising event and also clarifies what costs are not considered to be related to the holding of a fund-raising function.
28.	to treat child care expenses as an excluded expense	This recommendation was not addressed in Bill 212.
29.	to provide that the reporting of revenues and expenditures should be made more transparent by implementing mandatory electronic filing, providing definitions for expense categories, the use of more detailed report forms (including Form 5) by all candidates, and a continuation of the requirement that audits be conducted for all campaigns	This recommendation was addressed in Bill 212 as follows: Although electronic filing has not been made mandatory, section 88 of the Act is amended by adding that the clerk shall make the financial documents filed by the candidates available at no charge either on a website on the Internet or another electronic format. Candidates will still be required to file original signed paper copies of their financial documents. Ministry staff has indicated that new financial filing forms will be part of the new regulations.
30.	to provide that monitoring and enforcement of the provisions of the <i>Municipal Elections Act</i> be the responsibility of Elections Ontario and that sufficient power be given to Elections Ontario to provide appropriate enforcement of the provisions of the <i>Municipal Elections Act, 1996</i> ; and that should the Province fail to enact the appropriate changes to the <i>Municipal Elections Act, 1996</i> prior to the 2006 election, the Auditor General, as part of his 2006/2007 work plan, review the financial statements filed by Members of Council after the 2006 election and report to Council, through the Audit Committee, on any other irregularities or inconsistencies contained therein	This recommendation was not addressed in Bill 212. Although Bill 212 did not provide that monitoring and enforcement of the provisions of the MEA are to be the responsibility of Elections Ontario, it did provide the following to address the issues of compliance and enforcement as well as to increase transparency: 1. Increased penalties for offences under the Act. An individual who contravenes the Act is liable, on conviction, to a fine of up to \$25,000 and to imprisonment for up to six months. A corporation or trade union that contravenes the financial provisions of the Act is liable, on conviction, to a fine of up to \$50,000. 2. Financial statements must be made available electronically at no charge; and 3. Municipalities will be required to appoint a compliance audit committee.

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31.	to permit a booklet and a CD listing all the contributors and their contributions over \$100.00 to be published and posted on an appropriate section of the City Web page by the City Clerk's office after the first financial filing at the end of March in the year following an election and that, for reporting purposes, the statistics for corporations and trade unions each be separated	This recommendation was partially addressed in Bill 212. Section 88 of the Act is amended and requires the clerk to make all financial statements filed by candidates available to the public, free of charge, either on a website on the internet or in an electronic format.
32.	to permit a rebate program or a grant program at the discretion of the local municipality	This recommendation was not addressed in Bill 212.
33.	to provide that if a candidate is elected or receives 15 percent of the votes, the City pays for the cost of the audit	This recommendation was not addressed in Bill 212. However, Bill 212 states that expenses relating to a compliance audit are now considered an expense that is not subject to the spending limit for the office. It also provides for the candidate to have access to their surplus for any compliance audit requests and the ability to recommence their campaign under certain circumstances. Note: A candidate can only recommence their campaign until the end of the supplementary filing period (June 30). Therefore, if a candidate has extended their campaign, files their financial statement by the supplementary filing deadline (September 28) and subsequently is the subject of a compliance audit request, under the new rules they will not be able to recommence their campaign to cover any costs incurred from the audit.
34.	to provide that the campaign period of a candidate elected by acclamation shall end on the Monday following nomination day unless the candidate's campaign is in a deficit position on that date; and further, that if the candidate has a deficit, he or she may only continue to raise funds to: (a) eliminate any campaign deficit; and (b) provide for an amount equal to 10 percent of the spending limit for the office for the sole purpose of holding a post-election party;	This recommendation was not addressed in Bill 212.

