

Mail-In Voting and Contribution Rebate Programs in the 2022 General Municipal Election

Date: September 2, 2021

To: Executive Committee

From: City Clerk

Wards: All

SUMMARY

The purpose of this report is to seek authority from City Council to implement mail-in voting in the City's municipal and school board elections. Taking lessons from the successful implementation of mail-in voting in the 2021 Ward 22 Scarborough-Agincourt Councillor by-election, this option would be made available to electors as an alternative to in-person voting beginning with the 2022 general election.

In addition, this report asks that Council implement a Contribution Rebate Program by adopting a by-law, in the form of the by-law attached as Appendix B, that applies to all future general elections and by-elections. City Council has authorized a Contribution Rebate Program for the payment of rebates to persons who make contributions to candidates for Councillor and Mayor for every general election and by-election since amalgamation by means of a separate by-law for each general election and by-election.

RECOMMENDATIONS

The City Clerk recommends that:

1. City Council amend Municipal Code Chapter 53, Elections, to authorize a mail-in voting program for the City's municipal and school board elections and by-elections, substantially in the form of the draft bill attached as Appendix A.
2. City Council provide for the payment of rebates to individuals who make contributions to candidates for office on City Council by:
 - a. Amending Municipal Code Chapter 53, Elections, substantially in the form of the draft bill attached as Appendix B.

b. Maintaining funding from the non-program account to the Election Reserve Fund XR1017, at \$1.2 million per annum beginning in 2022, to pay for the program in the 2022 general election.

c. Directing that any election campaign surplus funds that become the property of the City according to the Municipal Elections Act, 1996 be deposited into the Election Reserve Fund XR1017.

FINANCIAL IMPACT

The cost of implementing a mail-in voting program in the 2022 general election will depend on the number of voters who choose to use mail-in voting. Preliminary estimates for the 2022 municipal election show an uptake of 150,000 electors. Based on the preliminary estimate, the associated costs for the mail-in voting program would be \$1.136 million, as reflected in the City Clerk's Office 2022 Operating Budget submission, with funds fully recovered from the Election Reserve Fund.

If City Council provides for the payment of rebates to individuals who make contributions to candidates for office on City Council, the funding from the non-program budget to the Election Reserve Fund for this program will be maintained at \$1.2 million per year for four years for a total of \$4.8 million. This funding is contingent upon City Council approving the same payment formula to individual contributors as it did for the 2018 municipal election.

The Contribution Rebate Payment formula is set out in Appendix B. The City's Contribution Rebate Program cannot apply to School Board Trustees or Third Party Advertisers.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

City Council, at its meeting on June 8, 2021, received a report from the City Clerk containing research of alternative voting methods used in other jurisdictions during the Pandemic, as well as how staff would report to Council by the end of 2021 with information on the feasibility of mail-in voting in the 2022 general election.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX24.2>

City Council, at its meeting on October 27, 2020, requested that a by-election be held to fill the vacancy in Ward 22 Scarborough-Agincourt and authorized a Contribution Rebate Program for the payment of rebates to persons who make contributions to candidates in the by-election. Council was also informed of the City Clerk's intent to use their emergency powers under the Municipal Elections Act, 1996 to implement mail-in voting in the by-election.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC25.1>

City Council, at its meeting on September 30, 2020, requested that the City Clerk evaluate and report back on alternative voting methods used in other jurisdictions that may provide electors with additional options during a pandemic.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX16.8>

COMMENTS

Mail-In Voting

The Ward 22 Scarborough-Agincourt Councillor by-election coincided with the second wave of the COVID-19 pandemic in Ontario, with nominations opening in October 2020 and election day taking place on January 15, 2021. Operating an election within the pandemic required a significant rethinking of how voting should take place to ensure that electors felt safe and secure when casting their ballot. Alternatives to in-person voting were necessary, and an overwhelming shift to mail-in voting was observed in many other jurisdictions running elections during the pandemic, both within Canada and internationally.

Because of this, the City Clerk determined that a mail-in voting program was a necessary complement to in-person voting during the by-election and used his emergency powers under the Municipal Elections Act, 1996 to implement it. The by-election was the first City of Toronto election to offer mail-in voting as an alternative to in-person voting. The program was developed in consultation with the Toronto Medical Officer of Health, looking at jurisdictions that had run elections through the pandemic to identify leading practices in ensuring voter safety and election integrity.

The success of the mail-in voting program in the Ward 22 Scarborough-Agincourt Councillor by-election—as well as the likelihood that the effects of the COVID-19 pandemic will remain for years to come—indicate that mail-in voting should remain an ongoing and accessible option for City of Toronto electors in future elections. Although the City Clerk used his emergency powers to implement mail-in voting for the 2021 by-election, City Council is being asked to authorize the implementation of such a program in subsequent elections. Section 42(1)(b) of the Municipal Elections Act, 1996 provides Council the authority to pass a by-law authorizing electors to use an alternative voting method that does not require them to attend a voting place in order to vote.

Mail-In Voting During the Scarborough-Agincourt By-Election

To vote by mail in the Ward 22 Scarborough-Agincourt by-election, electors had to apply to receive a mail-in voting package. If they were not already on the voters' list, electors who applied to vote by mail were required to provide a valid piece of identification to verify that they were an eligible elector in the City of Toronto. Once approved, electors were sent a mail-in voting package containing a ballot, instructions on filling out their ballot, and a postage-paid envelope for returning their completed package.

Electors could return their completed mail-in voting packages using the postage-paid envelope, or by dropping the package into a secure ballot drop-box that was set up outside each of the two Advance Vote locations at the start of the Advance Vote period. Packages deposited into drop-boxes were collected by staff daily.

Electors were able to check the status of their mail-in voting package through an online portal, which informed them if their application had been approved and mailed and, later, if their completed mail-in voting package had been received by Toronto Elections.

The Ward 22 Scarborough-Agincourt by-election saw a total of 12,102 electors cast a ballot, either in-person at a voting place or by using mail-in voting. Mail-in voting accounted for 3,515 (29%) of the ballots cast in the by-election.

A total of 4,082 mail-in voting packages were approved and mailed out to electors during the by-election and 3,558 packages were returned. 3,515 of these packages were tabulated, meaning that over 86% of those who requested a mail-in voting package successfully returned it and had their ballot tabulated. Only 1.2% of the returned packages were incomplete or improperly filled out and therefore not tabulated. Of the completed packages that were returned, 66.5% were received by mail and 33.5% were placed in the ballot drop-boxes.

Scaling Mail-In Voting to a General Election

Given the success of mail-in voting as a safe, secure and accessible alternative voting method in the Ward 22 Scarborough-Agincourt by-election—as well as the likelihood that effects of the COVID-19 pandemic will remain for years to come—the City Clerk intends to extend the option of mail-in voting to all eligible electors in the 2022 general election.

Implementing mail-in voting in a general election will require a significant scaling up of the existing program, with significant resources to match. Toronto's first implementation of mail-in voting took place during a winter by-election for a single office in one ward, with a total of 12,102 electors casting ballots. By comparison, the 2018 general election saw 769,044 electors cast ballots across 65 different offices. Assuming 15-20% of electors choose to vote by mail, this represents well over a hundred thousand applications for staff to review and approve, packages to be mailed out, and returned packages to be securely stored for processing and tabulation.

To facilitate mail-in voting for the 2021 by-election, a software application was purchased, tested and installed. This software will continue to be leveraged for mail-in voting in future elections. However, significant additional staff will be required to assist with program administration that ranges from accepting and approving applications to the daily retrieval of completed mail-in voting packages from ballot drop-boxes dispersed across the entire city. Under the assumption that up to 150,000 electors will apply to vote by mail, the associated mail-in voting program costs for staffing, software maintenance and testing, materials and postage is estimated at approximately \$1.136 million. The cost to provide mail-in voting for the 2022 general election has been included in the City Clerk's 2022 Operating Budget submission.

Contribution Rebate Program

Section 88.11(1) of the Municipal Elections Act, 1996 provides that a municipality may, by by-law, authorize a Contribution Rebate Program for the payment of rebates to individuals who make contributions to candidates for office on municipal council. The Contribution Rebate Program is only open to Councillor and Mayoral candidates. School Board Trustee candidates are not eligible to participate in the City's rebate program, and the legislation does not permit the participation of registered third party advertisers.

Toronto City Council has authorized a Contribution Rebate Program for each applicable general election and by-election since amalgamation. Should Council decide it wishes to continue the operation of a Contribution Rebate Program in City of Toronto municipal elections, it is recommended that it adopt a by-law, in the form of the by-law attached as Appendix B, that applies not only to the 2022 general election, but to all future general elections and by-elections. Should any changes need to be made to the by-law, the City Clerk will report to Council for approval of necessary amendments.

Changes to the Contribution Rebate Program

The provisions of the proposed Contribution Rebate Program for the 2022 general election and beyond are similar to the by-law passed by Council for the 2021 Ward 22 Scarborough-Agincourt by-election, as well as the 2018 general election before that. Both the candidate and the contributor must follow the criteria outlined in the by-law in order for the contributor to receive a contribution rebate. The sliding scale formula for calculating rebate amounts remains the same.

Some revisions have been made to the by-law to simplify program participation for candidates and contributors and to administer the program more efficiently. In addition to giving the City Clerk authority to implement the Contribution Rebate Program for subsequent elections and by-elections, other small changes include:

- Revising the language describing the systems used by candidates and contributors to input financial data and claim rebates, reflecting the development of new systems for future elections; and
- Increasing the amount of time that candidates have to submit their electronic financial data to Toronto Elections after filing their financial statement, from 48 hours to 5 business days.

The proposed by-law also removes the requirement that candidates participating in the Contribution Rebate Program submit copies of expense invoices to the City Clerk. Section 88.22(1) of the Municipal Elections Act requires candidates to keep all campaign financial records until the next Council takes office, and any auditor appointed for the purposes of a compliance audit has full access to candidate documents under both the Municipal Elections Act and the Public Inquiries Act. To ensure additional scrutiny of the campaign finances of candidates participating in the Contribution Rebate Program, the by-law continues to require that all program participants submit an Auditor's Report with their financial statement, regardless of how much money they raised or spent on their campaign. This extends above and beyond the requirements of

the Municipal Elections Act, which only requires an Auditor's Report if the candidate raises or spends more than \$10,000.

Cost of the Contribution Rebate Program

The cost of the Contribution Rebate Program is difficult to estimate as it depends on the number of candidates, the competitiveness of the races, the number of contributors and their contribution amounts, as well as other unpredictable factors.

The table below outlines rebate payments in the last three general elections. Note that the payment of rebates for the 2018 election is not yet complete: compliance audit proceedings remain ongoing for a candidate and rebates on contributions to them cannot be paid until the conclusion of the audit and any related court proceedings.

	2010	2014	2018*
# of Participating Candidates	181	185	146
# of Contributions	30,944	33,695	22,269
Amount Paid Out	\$4,378,617	\$4,023,257	\$2,902,088*

For the 2022 general election, with program parameters similar to those used in the last municipal election, an estimated \$4.8 million may be required to fund the Contribution Rebate Program.

The attached Appendix B outlines the full conditions under which an individual is entitled to a rebate and the formula for calculating the rebate amounts payable. Based on the sliding scale payment formula that gets applied to a contributor's total contribution amount, the maximum rebate payment any individual can receive is \$1,000. Total contribution amounts of \$25 or less are not eligible for a rebate payment.

CONTACT

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SIGNATURE

John D. Elvidge
City Clerk

ATTACHMENTS

Appendix A - Draft Bill to Authorize Mail-In Voting

Appendix B - Draft Bill to Authorize a Contribution Rebate Program