



OFFICE OF THE CITY CLERK  
Janice MacKenzie, City Clerk

October 23, 2013

VIA E-MAIL TO:

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AND REGISTERED MAIL TO:

Local Government Elections Reform  
Ministry of Community, Sport and Cultural Development  
PO Box 9847 STN PROV GOVT  
Victoria, BC, V8W 9T2

Re: White Paper on Local Government Elections Reform  
Proposed Local Elections Campaign Financing Act ("LECFA")  
Comments of City of Vancouver ("Vancouver") on LECFA

As requested, Vancouver now submits to the Honourable Minister and her Ministry of Community, Sport and Cultural Development the following comments on the White Paper and LECFA:

**Executive Summary:**

Vancouver is generally supportive of LECFA and the renewed focus on accountability and transparency. The City also has a strong commitment to enhancing the voter turnout for municipal elections, using a multi-pronged approach.

In reviewing the initiatives embedded in the white paper for electoral reform, the City's most significant concerns are with the implementation of the new regime between now and the 2014 local government elections. There are significant transitional provisions that will need to be in place which are not included in the White Paper. Moreover, with the increased penalties set out in LECFA, including significant fines and longer imprisonment, Vancouver considers it imperative that all stakeholders be given ample time to be educated and transition to the new LECFA regime.

In reviewing the proposed Local Elections Campaign Financing Act and consequential amendments, Vancouver has identified the following areas of concern:

- Implementation schedule and transition to new rules
- Campaign allocations between jurisdictions
- Campaign account transition
- Definition of 3<sup>rd</sup> party advertising
- 3<sup>rd</sup> party advertising sponsor registration
- Anonymous contributions
- Enforcement resources
- Nomination deposits
- Challenge to nominations
- Use of usual name

In addition, in this submission, Vancouver will be providing comments on the UBCM resolutions that support:

- a change in the local government election term from three years to four years; and
- Vancouver's request that the Province amend the Vancouver Charter to allow Vancouver to make rules for election campaign finance.

The City will also reiterate its support of any future legislative changes that would allow the City of Vancouver to implement on-line voting for future civic elections.

What follows is a discussion of each of the areas of concern identified by City of Vancouver staff.

## **I. PROPOSED LOCAL ELECTIONS CAMPAIGN FINANCING ACT (LECFA)**

### **A. Implementation Schedule**

Vancouver believes that the more time available for implementation, the better compliance with the Act will be. Vancouver is concerned that LECFA will be enacted during an election year. In our case, given the schedule, part of the election year will be governed by the Vancouver Charter, while the latter part will be governed by both LECFA and the Vancouver Charter.

The transition between the two sets of rules requires clear transitional provisions which take this schedule issue and the impact on candidates and their organizations into account. This is of more concern given that the City administers the election of the VSB, the Park Board, Council and the Mayor, and Vancouver attracts a lot more candidates than other jurisdictions. In the 2011, there were 12 candidates for Mayor, 41 for Councillors, 21 for Park Board Commissioners, and 20 for School Board Trustees. In addition there were 8 elector organizations.

For the City to align with the intention of the provisions in the Act, it will be essential that the Province enact LECFA along with robust supporting regulations prior to the end of February 2014 in order to:

- provide Vancouver adequate time to properly plan for and implement LECFA's changes
- provide training and education to Vancouver (and other local government) election officials who will be called upon to explain LECFA to candidates, elector organizations, 3<sup>rd</sup> party advertisers, and sponsors
- provide candidates, elector organizations, 3<sup>rd</sup> party advertisers and sponsors adequate time to learn about and comply with LECFA
- ensure elections are conducted in accordance with LECFA and so minimize risk of post-election litigation, candidate disqualification and election irregularities

#### **B. Campaign Account Allocation Between Jurisdictions**

The proposed LECFA sets out two jurisdictions for the city of Vancouver and board of education. Candidates and elector organizations are required to have a campaign account for each jurisdiction. This is a new requirement.

Vancouver typically has

- elector organizations that run slates of candidates for multiple offices - Mayor, Councillors, Park Board Commissioners, and School Board Trustees, and
- independent candidates that run for more than one office - often in both the school board jurisdiction as well as the city jurisdiction.

The allocation of election resources spent by an electoral organization running multiple slates will now have to be defined for each separate jurisdiction. It will require robust allocation rules and principles to be developed. This needs to be understood by local government, candidates, elector organizations, and the public by the time of enactment of LECFA (and the supporting allocation regulations) so as to adequately facilitate compliance.

#### **C. Campaign Account Transition**

Under both the Vancouver Charter and LECFA, campaign accounts must be set up as early as January 1 of the election year. If LECFA is enacted in early 2014, elector organizations and candidates will have to apply the Vancouver Charter rules to expenses and contributions paid/received between January 1 and the LECFA enactment date and the LECFA rules thereafter. Thus, the LECFA requirement for separate campaign accounts for each jurisdiction (and any other differences in accounting treatment or scope of expenses) will require robust transitional rules or principles to be developed and understood by local government, candidates and the public prior to enactment of LECFA and its supporting regulations.

#### **D. Definition of 3<sup>rd</sup> Party Advertising**

LECFA includes a definition of 3<sup>rd</sup> party advertising that is very broad and will include many individuals and organizations that were not considered 3<sup>rd</sup> party advertisers in past elections. We recognise that these rules are substantially similar to those in the Election Act.

Nonetheless, Vancouver is of the view that the exclusion section of this definition in Section 1.06 of LECFA is unduly narrow and difficult to understand. As written, a homeowner posting a home-made election sign in their window would, it appears, have to register with EBC failing which they would be subject to fines or imprisonment (Section 9.15). The exclusions also appear to unduly restrict the use of the internet for news, editorials, interviews, columns, letters or debates about an election.

**E. 3<sup>rd</sup> Party Advertising Sponsor Registration**

The range of persons and groups who will be required to register as 3<sup>rd</sup> party advertising sponsors is broad, and consists of persons who would likely not be aware of the requirement for registration and reporting, nor of the severe penalties for non-compliance. Vancouver recommends a significant educational program informing the public of these changes. A poorly understood law will reduce public confidence in the election process and spotty implementation which will erode fairness and transparency.

**F. Anonymous Contributions**

The proposed LECFA does not allow for anonymous contributions of any kind - including minor fund raising events. However, in provincial elections governed by the BC Election Act, anonymous contributions are allowed at such events provided certain requirements are met. Vancouver is supportive of restrictions on anonymous contributions similar to the Election Act.

**G. Enforcement**

Vancouver supports the centralization of investigation and enforcement resources and authority within the EBC as set out in LECFA. However, in Vancouver's view, LECFA does not adequately define the respective roles and responsibilities in this area as between the EBC and the local chief electoral officer. This ambiguity creates a concern that EBC may be the only authority with effective enforcement power but no funding or resources to adequately enforce across the 200 local elections governed by LECFA in each election cycle. Historically, Vancouver has played a limited role in enforcement, and has neither the expertise nor the resources to adequately investigate and enforce LECFA infractions. The impact of the statutory changes and the need for oversight, monitoring and enforcement activities are significant - it will be important to have further discussion about how these activities will be done and resourced and who is responsible.

**II. LECFA CONSEQUENTIAL AMENDMENTS TO LOCAL GOVERNMENT ACT ("LGA") /VANCOUVER CHARTER**

**H. Nomination Deposits**

Currently, the Vancouver Charter allows for Council to require a nomination deposit of up to \$100. It is unclear whether the LECFA consequential amendments would eliminate the authority to charge a nomination deposit. Given the large number of candidates who run for office and that some candidates are less serious than others (see J. Use of Usual Name), the City of

Vancouver charges the maximum nomination deposit to discourage frivolous candidates. For these reasons, Vancouver wishes to keep this authority and would like a consequential amendment allowing Vancouver to increase the nomination deposit by bylaw to a maximum of \$250 - which is equal to the fee in place under the BC Elections Act.

**I. Challenge of Nominations**

The four-day period for challenging a nomination is too short. A minimum of one week would work particularly given the four-day period often includes the Thanksgiving Day weekend.

The revised legislation continues to impose an obligation on a local election officer to bring a court application to challenge the nomination of a candidate whose name appears on the list of disqualified candidates based on the criteria set out in the Act. The local election officer should have the right to refuse the nomination of a person who has been disqualified under the Act. The burden of challenging the disqualification should fall to the disqualified candidate who should be required to apply to court to set aside the local election officer's refusal.

**J. Use of Usual Name**

The existing LGA and Vancouver Charter allow for the use of the "usual name of the person nominated". Although the proposed LECFA consequential amendments do not appear to change this, the term "usual name" is a concern to the City. Since "usual name" cannot be verified by reference to official documents (which only show their legal name), candidates may list any name on the ballot claiming it to be their usual name. In the past, candidates in our elections have listed themselves using Thirteen, Saxmaniac, Chuckles the Clown, Evil Genius, Queen Bee, and other such interpretations of "usual name". Vancouver therefore requests regulations under the Act or by-law-making power to prevent such abuses.

**III. OTHER ISSUES RELATED TO LECFA AND THE WHITE PAPER:**

**K. Election Term - Change to a Four-Year Term**

The UBCM membership adopted a resolution asking the Province to increase the interval between civic elections from three years to four years, and the legislation be passed to do so in time for the 2014 election.

The change from three to four years requires a substantial increase in commitment by candidates. The decision is not made lightly and therefore, candidates should be afforded ample time in which to consider running for a four-year term rather than the current three-year term. Vancouver is supportive of legislative change that would result in a four year election term beginning in 2014.

Vancouver recommends that the Province indicate its intention as soon as possible and ideally prior to January 1, 2014 with regard to implementation of a four-year term for the 2014 electoral cycle. This will ensure that

municipalities can share that information with would-be candidates and elector organizations early in the election year. In addition to our concerns re candidates, enactment should be done by Spring so that our three-year capital plan can be amended to reflect the four-year cycle in time for the elector approval requirements under the Vancouver Charter.

- L. **UBCM Resolution re Vancouver and Election Contribution/Expense Limits:**  
At its Fall 2013 meeting, the UBCM passed a resolution supporting Vancouver's request that the Province amend the Vancouver Charter to allow Vancouver to make rules for election campaign finance that place greater limits on campaign spending and contributions and provide for greater disclosure.

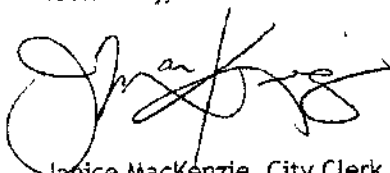
The intent of Vancouver City Council's original amendment was to move forward on electoral reform. City recognizes the substantial body of work that the Province has undertaken and is supportive of the phased approach outlined in the White Paper and reflected in the proposed LECFA. The Charter would have to be amended as part of this initiative. The concept at this late date of Vancouver going on its own is not viable given the significant resource implications of the changes anticipated.

M. **On-line Voting**

Vancouver supports legislative changes to allow for online voting. In August 2012, the Province established an independent panel chaired by the Province's CEO to review best practices and possible technological and logistical barriers. The panel is to report to the Legislative Assembly. The City is anxious to pursue internet voting in future elections as part of our multi-pronged approach to enhancing public participation in municipal elections.

The City of Vancouver is committed to the increased transparency and accountability concerning election campaign financing. We welcome your reply and further dialogue on these issues.

Yours truly,



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And Chief Election Officer

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MAR 04 2014

Ref: 155160

Ms. Rhona Martin  
President  
Union of British Columbia Municipalities  
60 – 10551 Shellbridge Way  
Richmond, BC V6X 2W9

Dear Ms. Martin: *Rhona*

I am pleased to convey the revised response to the 2013 UBCM Resolution B94 confirming the Province of British Columbia's decision to change the civic election term from three to four years. If legislation is passed, the change will be effective for the November 2014 local elections.

Sincerely,

*Coralee Oakes*

Coralee Oakes  
Minister

Enclosure

WHEREAS many provinces, including Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, Newfoundland and Labrador, Ontario, PEI and New Brunswick, have four-year civic election terms, a term length which reflects the accepted period between elections in the provincial and federal contexts;

AND WHEREAS the 2013 provincial election highlighted a number of issues with regard to local government elected officials running and being elected to the provincial legislature and the lack of legislative direction to avoid governance conflicts, expensive by-elections, long absences on council and boards and the double dipping of salaries;

AND WHEREAS four-year election terms would likely be more productive for councils and staff and would save taxpayer money:

THEREFORE BE IT RESOLVED that UBCM ask the provincial government to increase the interval between civic elections from three years to four years, **and that legislation be passed to do so in time for the 2014 election.**

RESPONSE: Ministry of Community, Sport and Cultural Development

The Province is supportive of extending the term of office for local elected officials from three to four years. The Province is committed to introducing legislation that, if passed, will make the change effective for the November 2014 general local elections. The change would mean that following the 2014 general local elections, the next local government election would be held in 2018.