Municipal Elections Act, 1996

S.O. 1996, CHAPTER 32
SCHEDULE

CURRENT Consolidation period: January 1, 2023 - e-Laws currency date (March 30, 2026)

Last amendment: 2021, c. 5, Sched. 4.

Legislative History

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GENERAL

Definitions

1 (1) In this Act,

"by-election" means an election other than a regular election; ("élection partielle")

"candidate" means a person who has been nominated under section 33; ("candidat")

"certified candidate" means a candidate whose nomination has been certified under section 35; ("candidat certifié")

"Chief Electoral Officer" means the Chief Electoral Officer who holds office under the *Election Act*; ("directeur général des élections")

"clerk" means the clerk of a municipality; ("secrétaire")

"compliance audit committee" means, in relation to a municipality or local board, the committee established under section 88.37; ("comité de vérification de conformité")

"fund-raising function" means an event or activity,

(a) held by a candidate or under a candidate's direction for the purpose of raising funds for his or her election campaign, or

(b) held by a registered third party or under its direction for the purpose of raising funds in relation to third party advertisements; ("activité de financement")

"local board" means a local board as defined in the *Municipal Affairs Act*, including a police village; ("conseil local")

"locality" means territory without municipal organization that is deemed to be a district municipality under the *Education Act*; ("localité")

"office" means an office to which election is governed by this Act; ("poste")

"owner or tenant", in relation to an election, means a person who is the owner or tenant shown on the assessment roll of land assessed under the *Assessment Act* and a non-residential tenant of land assessed under the *Assessment Act*, whether or not the tenant is shown on the assessment roll, but does not include an owner or tenant of

land who is entitled to use the land under a time share contract unless the person is entitled to use the land,

(a) on voting day, or

(b) for a period of six weeks or more during the calendar year in which voting day of the election is held; (“propriétaire ou locataire”)

“permanent register of electors” means the permanent register of electors for Ontario established and maintained by the Chief Electoral Officer under section 17.1 of the *Election Act*; (“registre permanent des électeurs”)

“prescribed” means prescribed by the Minister; (“prescrit”)

“qualifying address” means the address that qualifies an elector under section 17; (“adresse habilitante”)

“registered third party” means, in relation to an election in a municipality, an individual, corporation or trade union that is registered under section 88.6; (“tiers inscrit”)

“restricted period for third party advertisements” means the period described in subsection 88.4 (2); (“période de restriction pour la publicité de tiers”)

“tenant” includes an occupant and a person in possession other than the owner; (“locataire”)

“third party advertisement” means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing,

(a) a candidate, or

(b) a “yes” or “no” answer to a question referred to in subsection 8 (1), (2) or (3),

but does not include an advertisement by or under the direction of a candidate or an advertisement described in subsection (2) or (2.1); (“publicité de tiers)

“time share contract” means a contract by which a person acquires the right to use a property for residential purposes,

(a) for a period of time each year, or other interval, and

(b) as part of a plan that provides for the use of the property to circulate among persons participating in the plan; (“contrat de multipropriété”)

"trade union" means a trade union as defined in the *Labour Relations Act, 1995* or the *Canada Labour Code* (Canada) and includes a central, regional or district labour council in Ontario; ("syndicat")

"voting day" means the day on which the final vote is to be taken in an election. ("jour du scrutin") 1996, c. 32, Sched., s. 1; 1997, c. 31, s. 157 (1); 2002, c. 17, Sched. D, s. 1; 2002, c. 17, Sched. F, Table; 2009, c. 33, Sched. 21, s. 8 (1); 2016, c. 15, s. 1 (1-6); 2020, c. 23, Sched. 4, s. 1; 2020, c. 26, Sched. 2, s. 1.

Interpretation: presiding judge

(1.1) A reference in this Act to a presiding judge means a judge or a justice of the peace. 2009, c. 33, Sched. 21, s. 8 (2).

Deemed exception, third party advertisement

(2) An advertisement is deemed not to be a third party advertisement for the purposes of this Act if the person or entity that causes the advertisement to appear in any broadcast, print, electronic or other medium incurs no expenses in relation to the advertisement. 2016, c. 15, s. 1 (7).

Same

(2.1) An advertisement is deemed not to be a third party advertisement for the purposes of this Act when it is given or transmitted by an individual to his or her employees, by a corporation to its shareholders, directors, members or employees or by a trade union to its members or employees. 2016, c. 15, s. 1 (7).

Corporations deemed to be single corporation

(3) For the purposes of this Act, two or more corporations are deemed to be a single corporation,

(a) if one of the corporations controls the others, either directly or indirectly; or

(b) if all of the corporations are owned or controlled by the same person or group of persons, either directly or indirectly. 2016, c. 15, s. 1 (8).

v **Section Amendments with date in force (d/m/y)**

Residence

2 (1) For the purposes of this Act, a person's residence is the permanent lodging place to which, whenever absent, he or she intends to return. 1996, c. 32, Sched., s. 2 (1).

Rules

(2) The following rules apply in determining a person's residence:

1. A person may only have one residence at a time.

2. The place where a person's family resides is also his or her residence, unless he or she moves elsewhere with the intention of changing his or her permanent lodging place.

3. If a person has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is his or her residence. 1996, c. 32, Sched., s. 2 (2).

Exception, students

(2.1) Despite paragraph 1 of subsection (2), a person may have residences in two local municipalities at the same time if,

(a) the person lives in one of the local municipalities in order to attend an educational institution, but not with the intention of changing his or her permanent lodging place; and

(b) the person's permanent lodging place is in the other local municipality. 2009, c. 33, Sched. 21, s. 8 (3).

Rules if no permanent lodging place

(3) If a person has no permanent lodging place as described in subsections (1) and (2), the following rules apply in determining his or her residence:

1. The place to which the person most frequently returned to sleep or eat during the five weeks preceding the determination is his or her residence.

2. If the person returns with equal frequency to one place to sleep and to another to eat, the place to which he or she returns to sleep is his or her residence.

3. Multiple returns to the same place during a single day, whether to eat or to sleep, shall be considered one return.

4. A person's declaration regarding the places to which he or she returned to eat or sleep during a given time period is conclusive, in the absence of evidence to the contrary. 1996, c. 32, Sched., s. 2 (3); 2016, c. 15, s. 2.

v **Section Amendments with date in force (d/m/y)**

Application of Act

3 This Act applies to:

1. An election to an office on:

   i. the council of a local municipality,

   ii. the council of an upper-tier municipality, if the holder of the office is required to be elected by the electors of one or more local municipalities,

   iii. a local board, if the holder of the office is required to be elected in the same manner as members of the council of a local municipality.

2. An election to obtain the assent of electors to a by-law as required or authorized by law.

3. An election to obtain the opinion of the electors on any question as required or authorized by law. 1996, c. 32, Sched., s. 3; 2016, c. 15, s. 3; 2020, c. 26, Sched. 2, s. 2.

v **Section Amendments with date in force (d/m/y)**

Transition

3.1 Despite any amendment made to this Act by Schedule 4 to the *Helping Tenants and Small Businesses Act, 2020*, the relevant provision of this Act, as it existed immediately before the coming into force of the amendment, continues to apply for the purposes of a by-election that commences before January 1, 2024. 2020, c. 23, Sched. 4, s. 2.

v **Section Amendments with date in force (d/m/y)**

Regular elections

4 (1) A regular election to fill offices shall be held in 2006 and in every fourth year thereafter. 2006, c. 9, Sched. H, s. 1.

By-laws and questions, municipalities

(2) A vote on a by-law or question that a municipality wishes to submit to the electors shall be combined with the next regular election, unless the municipality provides, by by-law, that the vote shall be held at another time. 1996, c. 32, Sched., s. 4 (2).

Questions, local boards and Minister

(3) Subsection (2) applies with necessary modifications to a vote on a question that a local board or the Minister wishes to submit to the electors. 1996, c. 32, Sched., s. 4 (3).

Exception

(4) The vote on a question under section 53 or 54 of the *Liquor Licence Act*, as it read immediately before it was repealed, or under any successors to those provisions in a regulation made under the *Liquor Licence and Control Act, 2019,* may be held at another time than the next regular election only with the approval of the board of the Alcohol and Gaming Commission of Ontario under section 55 of the *Liquor Licence Act*, as it read immediately before it was repealed, or under any successor to that provision in a regulation made under the *Liquor Licence and Control Act, 2019*. 2019, c. 15, Sched. 22, s. 100 (1).

v **Section Amendments with date in force (d/m/y)**

Voting day

5 Voting day in a regular election is the fourth Monday in October, subject to section 10. 1996, c. 32, Sched., s. 5; 2009, c. 33, Sched. 21, s. 8 (4).

v **Section Amendments with date in force (d/m/y)**

Four-year term

6 (1) The term of all offices to which this Act applies is four years, beginning on November 15 in the year of a regular election. 2006, c. 9, Sched. H, s. 2; 2017, c. 10, Sched. 4, s. 8 (1).

Transition

(1.1) Despite subsection (1), with respect to the 2018 regular election, the term of all offices to which this Act applies shall begin on December 1, 2018 and end on November

14, 2022. 2017, c. 10, Sched. 4, s. 8 (2).

Application of subsection (1)

(2) Subsections (1) and (1.1) prevail over a provision in any other Act fixing the term of an office to which this Act applies. 1996, c. 32, Sched., s. 6 (2); 2017, c. 10, Sched. 4, s. 8 (3).

Term continues

(3) The holders of offices continue to hold office until their successors are elected and the newly elected council or local board is organized. 1996, c. 32, Sched., s. 6 (3).

(4), (5) Repealed: 2016, c. 15, s. 5.

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v **Section Amendments with date in force (d/m/y)**

Cost of election payable by local municipality

7 (1) Unless an Act specifically provides otherwise, the costs incurred by the clerk of a local municipality in conducting an election shall be paid by the local municipality. 1996, c. 32, Sched., s. 7 (1).

Payment on certification

(2) The local municipality shall pay the costs as soon as possible after its clerk has signed a certificate verifying the amount. 1996, c. 32, Sched., s. 7 (2).

Exceptions: recounts, by-elections

(3) Despite subsection (1), the local municipality shall be reimbursed for its reasonable costs in the following situations:

1. When the clerk conducts a recount in a regular election with respect to,
   i. an office on a local board or upper-tier municipality,
   ii. a by-law or question submitted by an upper-tier municipality, or
   iii. a question submitted by a local board or the Minister.
2. When the clerk conducts a by-election for a local board or an upper-tier municipality or the Minister, or a recount in such a by-election.
3. Repealed: 2020, c. 26, Sched. 2, s. 3.

1996, c. 32, Sched., s. 7 (3); 2016, c. 15, s. 6; 2020, c. 26, Sched. 2, s. 3.

Payment on certification

(4) The local board or upper-tier municipality or the Minister, as the case may be, shall pay the costs referred to in subsection (3) as soon as possible after receiving a certificate verifying the amount and signed by the clerk of the local municipality. 1996, c. 32, Sched., s. 7 (4).

(5) Repealed: 2002, c. 17, Sched. D, s. 2.

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v **Section Amendments with date in force (d/m/y)**

Submission of by-laws and questions

8 (1) The council of a municipality may pass a by-law to submit to its electors,

(a) a proposed by-law requiring their assent;

(b) subject to section 8.1, a question not otherwise authorized by law but within the council's jurisdiction;

(c) subject to section 8.1, a question, the wording of which is established by an Act or a regulation under an Act. 1996, c. 32, Sched., s. 8 (1); 2000, c. 5, s. 27 (1).

Submission of question, local board

(2) A local board described in subparagraph iii of paragraph 1 of section 3 may pass a resolution to submit to its electors a question not otherwise authorized by law but within the local board's jurisdiction. 1996, c. 32, Sched., s. 8 (2).

(2.1) Repealed: 2000, c. 5, s. 27 (2).

Question by Minister

(3) The Minister may make an order requiring the clerk of a local municipality to submit a question to the electors of his or her municipality. 1996, c. 32, Sched., s. 8 (3).

Transmission to clerk

(4) When an upper-tier municipality acts under subsection (1), its clerk shall transmit to the clerk who is responsible for conducting the election a copy of the by-law and the proposed by-law or question. 1996, c. 32, Sched., s. 8 (4).

Same

(5) When a local board acts under subsection (2), its secretary shall transmit to the clerk who is responsible for conducting the election a copy of the resolution and question. 1996, c. 32, Sched., s. 8 (5).

Restriction

(5.1) For the purposes of a regular election, the clerk who is responsible for conducting the election is not required to submit a by-law or question to the electors unless on or before May 1 of the election year,

(a) in the case of a question of the Minister, the order under subsection (3) is transmitted to the clerk;

(b) in the case of a by-law or question of an upper-tier municipality, subsection (4) is complied with;

(c) in the case of a question of a local board, subsection (5) is complied with; or

(d) despite the *Fluoridation Act*, in the case of a petition under the *Fluoridation Act*, the petition is transmitted to the clerk. 2002, c. 17, Sched. D, s. 3; 2009, c. 33, Sched. 21, s. 8 (5); 2016, c. 15, s. 7 (1).

Deemed transmission of petition

(5.2) Despite the *Fluoridation Act*, if a petition under the *Fluoridation Act* is submitted in the election year of a regular election after May 1, the petition is deemed to have been transmitted to the clerk on February 1 of the following year. 2002, c. 17, Sched. D, s. 3; 2009, c. 33, Sched. 21, s. 8 (6); 2016, c. 15, s. 7 (2).

Notice to electors

(6) The clerk who is responsible for conducting the election shall give the electors notice of by-laws and questions referred to in this section. 1996, c. 32, Sched., s. 8 (6).

Cost of giving notice

(7) The upper-tier municipality or local board or the Minister, as the case may be, shall pay the local municipality's reasonable costs of giving notice under subsection (6), as soon as possible after receiving a certificate verifying the amount and signed by the clerk of the local municipality. 1996, c. 32, Sched., s. 8 (7).

Assent to by-law

(8) A by-law is assented to,

(a) in the case of a local municipality, if a majority of the votes cast in the municipality are in favour of the by-law;

(b) in the case of an upper-tier municipality, if a majority of the votes cast in all the local municipalities are in favour of the by-law. 1996, c. 32, Sched., s. 8 (8).

Result of vote

(9) When the time for applying for a recount has expired without an application being made, or when any application for a recount has been finally disposed of, the clerk shall certify the result of the vote in his or her municipality to the clerk of the upper-tier municipality, the secretary of the local board or the Minister, as the case may be. 1996, c. 32, Sched., s. 8 (9).

Waiting period

(10) A council shall not consider a proposed by-law to which the electors' assent has been obtained until the 14th day after the result of the vote is certified. 1996, c. 32, Sched., s. 8 (10).

Conflicts

(11) In cases of conflict, the Act or regulation establishing the wording of a question under clause (1) (c) or the Act authorizing the regulation establishing the wording of the question prevails over this Act or a regulation under this Act. 2000, c. 5, s. 27 (3).

Expenses

(12) Nothing in this Act prevents a municipality or the clerk of a municipality from incurring expenses in respect of a question which are required or authorized by this Act to be incurred. 2016, c. 15, s. 7 (3).

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v **Section Amendments with date in force (d/m/y)**

Conditions re: submitting a question

8.1 (1) A by-law to submit a question to the electors under clause 8 (1) (b) or (c),

(a) shall be passed on or before March 1 in the year of a regular election at which it is intended to submit the question to the electors;

(b) cannot be amended after the last date referred to in clause (a); and

(c) despite clause (b), can be revoked on or before nomination day and, if the election does not include an election for an office, on or before the 31st day before voting day. 2000, c. 5, s. 28; 2016, c. 15, s. 8.

Rules

(2) A question authorized by by-law under clause 8 (1) (b) shall comply with the following rules:

1. It shall concern a matter within the jurisdiction of the municipality.

2. Despite rule 1, it shall not concern a matter which has been prescribed by the Minister as a matter of provincial interest.

3. It shall be clear, concise and neutral.

4. It shall be capable of being answered in the affirmative or the negative and the only permitted answers to the question are “yes” or “no”. 2000, c. 5, s. 28.

Notice of intent

(3) Before passing a by-law under clause 8 (1) (b) or (c), the clerk shall give at least 10 days notice of the intention to pass the by-law to the public and the Minister and hold at least one public meeting to consider the matter. 2000, c. 5, s. 28.

Notice of by-law

(4) Within 15 days after a municipality passes a by-law under clause 8 (1) (b) or (c), the clerk shall give notice of the passage of the by-law to the public and the Minister. 2000, c. 5, s. 28.

Contents

(5) A notice under subsections (3) and (4) shall include,

(a) the wording of the question;

(b) in the case of a by-law under clause 8 (1) (b), a clear, concise and neutral description of the consequences of the question if it is approved and the consequences if it is rejected with the special majority under section 8.2, including

an estimate of the costs, if any, that the municipality may incur in implementing the results of the question; and

(c) in the case of a by-law under clause 8 (1) (b), a description of the right to appeal under subsection (6) including, in the case of a notice under subsection (4), the last day for filing a notice of appeal. 2000, c. 5, s. 28.

Appeal

(6) Within 20 days after the clerk gives notice of the passage of a by-law under clause 8 (1) (b), the Minister or any other person or entity may appeal to the Chief Electoral Officer of the Province of Ontario on the grounds the question does not comply with paragraph 3 or 4 of subsection (2) by filing with the clerk a notice of appeal setting out the objections and the reasons in support of the objections. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Notices to be forwarded

(7) The clerk shall, within 15 days after the last day for filing a notice of appeal under subsection (6), forward any notices of appeal received to the Chief Electoral Officer. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Other information

(8) The clerk shall provide any other information or material to the Chief Electoral Officer that the Chief Electoral Officer requires in connection with the appeal. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Hearing

(9) The Chief Electoral Officer or his or her designate shall, within 60 days of receiving notices under subsection (7), hold a hearing and dismiss the appeal or allow the appeal in whole or in part. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Order

(10) If the Chief Electoral Officer allows the appeal in whole or in part, the Chief Electoral Officer may make an order amending the by-law or directing the municipality to amend the by-law in the manner ordered. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Non-application

(11) Subsections (1) and (3) to (9) do not apply to anything done pursuant to an order under subsection (10). 2000, c. 5, s. 28.

v **Section Amendments with date in force (d/m/y)**

Results

8.2 (1) The results of a question authorized by a by-law under clause 8 (1) (b) are binding on the municipality which passed the by-law if,

(a) at least 50 per cent of the eligible electors in the municipality vote on the question; and

(b) more than 50 per cent of the votes on the question are in favour of those results. 2000, c. 5, s. 28.

Determination of number of votes

(2) For the purpose of clause (1) (a), the number of eligible electors shall be determined from the voters' lists as they exist at the close of voting. 2000, c. 5, s. 28.

v **Section Amendments with date in force (d/m/y)**

Implementation

8.3 (1) If the results of a question authorized by a by-law under clause 8 (1) (b) are binding on a municipality,

(a) if an affirmative answer received the majority of the votes, the municipality shall do everything in its power to implement the results of the question in a timely manner; and

(b) if a negative answer received the majority of the votes, the municipality shall not do anything within its jurisdiction to implement the matter which was the subject of the question for a period of four years following voting day. 2000, c. 5, s. 28; 2006, c. 9, Sched. H, s. 3 (1).

Same

(2) Without limiting subsection (1), the municipality shall, between 14 and 180 days after voting day,

(a) if a by-law or resolution is required to implement the results of the question, ensure that it is prepared and placed before council or, if a series of by-laws are required to implement the results, ensure that the first of the series is prepared and placed before council;

(b) despite clause (a), if passage of a by-law or resolution required to implement the results of the question is subject to a condition precedent under a regulation or statute (such as giving notice or holding a public hearing), ensure the initial steps have been taken to comply with the condition;

(c) if administrative action to change a policy or practice is required to implement the results of the question, instruct municipal staff to take that action. 2000, c. 5, s. 28.

Limitation

(3) For the purpose of clause (1) (a), it is not within the jurisdiction of the municipality to eliminate or override any substantive or procedural legal right of any person or entity who is or may be affected by the implementation of the results of the question as illustrated by the following examples:

1. If a zoning change under the *Planning Act* is necessary to implement the results, the binding effect of the question is subject to the *Planning Act* and the discretion of the municipality under that Act is not constrained. If the zoning change is approved, the municipality is bound to implement the results; if it is not approved, the municipality is not bound.

2. If the results of the question require the passage of a by-law which requires notice to be given and at least one public meeting to be held to consider the matter before the by-law is passed, the binding effect of the question is subject to these procedural requirements and the discretion of the municipality to proceed following the public meeting is not constrained. If, after the public meeting, the municipality decides not to implement the results of the question, it is not required to do so. 2000, c. 5, s. 28.

Order

(4) A court presiding over a proceeding in respect of a recount, an offence under this Act or a proceeding under section 83 (controverted elections) may make an order temporarily staying the requirement of a municipality to implement the results of a question under this Act if satisfied that the requirement may be directly or indirectly affected by the proceeding. 2000, c. 5, s. 28.

Time restriction

(5) A municipality that has passed a by-law or resolution or taken any other action to implement the results of the question shall not do anything within its jurisdiction to reverse or substantially change the action for a period of four years following the day the action took effect. 2000, c. 5, s. 28; 2006, c. 9, Sched. H, s. 3 (2).

Exception

(6) Nothing in this section requires a municipality to do anything or prevents a municipality from doing anything if,

(a) a subsequent binding question authorizes such action or inaction; or

(b) the council is of the opinion, reasonably held, that there has been a material change in circumstances since the time it passed the by-law under clause 8 (1) (b) to put the binding question to the electors. 2000, c. 5, s. 28.

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v **Section Amendments with date in force (d/m/y)**

Language of notices and forms

9 (1) Notices, forms and other information provided under this Act shall be made available in English only, unless the council of the municipality has passed a by-law under subsection (2). 1996, c. 32, Sched., s. 9 (1).

By-law

(2) A municipal council may pass a by-law allowing the use of,

(a) French, in addition to English, in prescribed forms;

(b) French, other languages other than English, or both, in notices, forms (other than prescribed forms) and other information provided under this Act. 1996, c. 32,

Sched., s. 9 (2).

Non-application

(3) This section does not apply with respect to notices, forms and other information provided under this Act in respect of the election of the persons described in clauses 9.1 (1) (a) and (b). 1999, c. 14, Sched. F, s. 6 (2).

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v **Section Amendments with date in force (d/m/y)**

Bilingual notices and forms

9.1 (1) This section applies with respect to notices, forms and other information provided under this Act in respect of the election of,

(a) members of a French-language district school board; or

(b) members of a school authority that,

(i) has established, operated or maintained a French-language instructional unit within the year before voting day, or

(ii) is subject to an agreement, resolution or order under Part XII of the *Education Act* that requires the school authority to establish, operate or maintain a French-language instructional unit. 1999, c. 14, Sched. F, s. 6 (3).

Language of notices, etc.

(2) Notices, forms and other information provided under this Act with respect to the matters described in subsection (1) shall be made available in English and French and shall not be provided in any other language unless the council of the municipality has passed a by-law under subsection (3). 1999, c. 14, Sched. F, s. 6 (3).

By-law

(3) A municipal council may pass a by-law allowing the use of languages other than English and French in notices, forms (other than prescribed forms) and other information provided under this Act with respect to the matters described in subsection (1). 1999, c. 14, Sched. F, s. 6 (3).

Interpretation

(4) In this section, "French-language district school board", "French-language instructional unit" and "school authority" have the same meaning as in subsection 1 (1) of the *Education Act*. 1999, c. 14, Sched. F, s. 6 (3).

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v **Section Amendments with date in force (d/m/y)**

Saturdays and holidays

10 (1) A time limited by this Act that would otherwise expire on a Saturday or holiday shall be deemed to expire on the next day that is neither a Saturday nor a holiday. 1996, c. 32, Sched., s. 10 (1).

Exception

(2) When voting day is determined under subsection (1), the days fixed for other procedures in the election are unaffected. 1996, c. 32, Sched., s. 10 (2).

2018 regular election, City of Toronto

10.1 (1) Except as otherwise provided, this section applies with respect to the 2018 regular election within the City of Toronto. 2018, c. 11, Sched. 3, s. 1.

Exception, head of council

(2) Subsections (3) to (9) do not apply to a nomination for the office of head of council. 2018, c. 11, Sched. 3, s. 1.

New nomination day

(3) Despite section 31, nomination day is September 14, 2018 and the following rules apply:

1. Nomination day as set out in section 31 is deemed not to have occurred.
2. The period for filing a nomination is deemed to have run continuously from May 1, 2018 until September 14, 2018. 2018, c. 11, Sched. 3, s. 1.

Notifying the clerk re office on the council

(4) If a person has filed a nomination under section 33 for an office on the council and wishes to continue to be a candidate in the election, the person shall notify the clerk in

writing before 2 p.m. on September 14, 2018 of the office on the council, other than the office of head of council, for which the person wishes to be nominated. 2018, c. 11, Sched. 3, s. 1.

Notifying clerk re office on a school board

(5) If a person has filed a nomination under section 33 for an office on a school board and wishes to continue to be a candidate in the 2018 regular election, the person shall notify the clerk in writing before 2 p.m. on September 14, 2018 of the office on the same school board for which the person wishes to be nominated. 2018, c. 11, Sched. 3, s. 1.

Same, not a new nomination

(6) The giving of notice to the clerk under subsection (4) or (5) does not constitute a new nomination. 2018, c. 11, Sched. 3, s. 1.

Same, not multiple campaigns

(7) For the purposes of subsection 88.24 (3), a person who has notified the clerk under subsection (4) or (5) shall not be considered to be a candidate for more than one office on the same council or school board, as the case may be. 2018, c. 11, Sched. 3, s. 1.

Deemed withdrawal of nomination

(8) A person who has filed a nomination is deemed to have withdrawn his or her nomination if he or she has not notified the clerk under subsection (4) or (5). 2018, c. 11, Sched. 3, s. 1.

Notice by clerk

(9) As soon as possible after the day the *Better Local Government Act, 2018* receives Royal Assent, the clerk shall notify in writing each person who filed a nomination under section 33 for an office on the council, other than the office of head of council, or for an office on a school board and the notice shall include the following:

1. A statement that if the person wishes to continue to be a candidate in the 2018 regular election, the person must notify the clerk under subsection (4) or (5), as applicable.

2. A statement that if the person does not notify the clerk under subsection (4) or (5), the person will be deemed to have withdrawn his or her nomination.

3. Any other information as may be prescribed. 2018, c. 11, Sched. 3, s. 1.

Regulations

(10) The Minister may make regulations for implementing the purposes, provisions and intention of this section and, without restricting the generality of the foregoing, the Minister may make regulations,

(a) prescribing anything that is referred to, in this section, as prescribed;

(b) varying the operation of any of the provisions of this Act for the purposes of the 2018 regular election; and

(c) with respect to this Act, governing transitional matters that arise out of the implementation of this section, including any such transitional matters that may arise for the 2022 regular election or any by-election that takes place before the 2022 regular election. 2018, c. 11, Sched. 3, s. 1.

Same

(11) A regulation made under subsection (10) may limit the circumstances in which an order under subsection 83 (1) may be made in relation to the conduct of the 2018 regular election. 2018, c. 11, Sched. 3, s. 1.

Retroactivity

(12) A regulation made under subsection (10) is, if it so provides, effective with reference to a period before it was filed. 2018, c. 11, Sched. 3, s. 1.

Conflict

(13) In the event of a conflict between a regulation made under subsection (10) and a provision of this Act or of any other Act or regulation, the regulation made under subsection (10) prevails. 2018, c. 11, Sched. 3, s. 1.

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v **Section Amendments with date in force (d/m/y)**

2018 regular election, certain regional municipalities

Deemed withdrawal of nominations

10.2 (1) A person who has filed a nomination for the office of head of council of a municipality referred to in subsection 218.1 (1) of the *Municipal Act, 2001* in the 2018 regular election is deemed to have withdrawn his or her nomination under section 36 of this Act immediately before the applicable deadline set out in that section. 2018, c. 11, Sched. 3, s. 1.

Regulations

(2) The Minister may make regulations that, in the opinion of the Minister, are advisable or necessary for the purposes of carrying out the 2018 regular election for the municipalities referred to in subsection 218.1 (1) of the *Municipal Act, 2001* and, without restricting the generality of the foregoing, the Minister may make regulations,

(a) varying the operation of any of the provisions of this Act for those purposes;

(b) governing transitional matters that arise out of the implementation of section 218.1 of the *Municipal Act, 2001*. 2018, c. 11, Sched. 3, s. 1.

Same

(3) A regulation made under subsection (2) may limit the circumstances in which an order under subsection 83 (1) may be made in relation to the conduct of the 2018 regular election for the municipalities referred to in subsection 218.1 (1) of the *Municipal Act, 2001*. 2018, c. 11, Sched. 3, s. 1.

Retroactivity

(4) A regulation made under subsection (2) is, if it so provides, effective with reference to a period before it was filed. 2018, c. 11, Sched. 3, s. 1.

Conflict

(5) In the event of a conflict between a regulation made under subsection (2) and a provision of this Act or of any other Act or regulation, the regulation made under subsection (2) prevails. 2018, c. 11, Sched. 3, s. 1.

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v **Section Amendments with date in force (d/m/y)**

ELECTION OFFICIALS

Duties of clerk

11 (1) The clerk of a local municipality is responsible for conducting elections within that municipality, subject to the following exceptions:

1. The clerks specified in the regulations made under the *Education Act* are responsible for certain aspects of the elections of members of school boards, as set out in those regulations.

2. The clerks specified in section 11.1 are responsible for certain aspects of the election of members of the council of an upper-tier municipality, as provided for in that section.

3. Repealed: 2002, c. 17, Sched. F, Table.

4. The clerks specified in subsection (5) are responsible for certain aspects of the election with respect to a question an upper-tier municipality submits to its electors under clause 8 (1) (b) or (c). 1996, c. 32, Sched., s. 11 (1); 1999, c. 14, Sched. F, s. 6 (4); 2000, c. 5, s. 29 (1); 2002, c. 17, Sched. F, Table.

Same

(2) Responsibility for conducting an election includes responsibility for,

(a) preparing for the election;

(b) preparing for and conducting a recount in the election;

(c) maintaining peace and order in connection with the election; and

(d) in a regular election, preparing and submitting the report described in subsection 12.1 (2). 1996, c. 32, Sched., s. 11 (2); 2009, c. 33, Sched. 21, s. 8 (7).

Locality, secretary of school board

(3) The secretary of a school board is responsible for conducting elections of members of the board who are to be elected by the electors of a locality; in that case, this Act applies as if the secretary were the clerk, the school board were the council of a local municipality and the locality were the geographic area of a local municipality. 1996, c. 32, Sched., s. 11 (3).

Police village

(4) If a police village is situated in more than one local municipality, the clerk of each local municipality is responsible for conducting the election within that municipality, subject to the following:

1. Nominations for office on the police village shall be filed with the clerk of the local municipality with the largest number of electors of the police village.

2. As soon as possible after the close of nominations, the clerk with whom they were filed shall provide the clerks of the other local municipalities with a list of certified candidates.

3. The clerk of each local municipality shall certify the results of the election to the clerk with whom nominations were filed.

4. The clerk with whom nominations were filed shall prepare the final summary and announce the election results. 1996, c. 32, Sched., s. 11 (4).

Upper-tier municipality

(5) Where an upper-tier municipality is submitting a question to its electors under clause 8 (1) (b) or (c), the clerk of the upper-tier municipality is responsible for conducting the election on the question except that the clerk of each local municipality which forms part of the upper-tier municipality for municipal purposes is responsible for recording the vote in the local municipality subject to the following:

1. Registration to incur expenses with respect to the question shall be filed with the clerk of the upper-tier municipality.

2. As soon as possible after the close of nominations or, in the case where the election does not involve an election for an office, no later than 28 days before voting day, the clerk of the upper-tier municipality shall provide the clerks of each of the local municipalities with a list of individuals, corporations or trade unions registered to incur expenses with respect to the question.

3. The clerk of each local municipality shall, subject to subsection 8 (9), certify the results of the election to the clerk of the upper-tier municipality.

4. The clerk of the upper-tier municipality shall prepare the final summary and announce the election results. 2000, c. 5, s. 29 (2).

v **Section Amendments with date in force (d/m/y)**

Special case

11.1 (1) Subject to subsection (2), this section applies to an upper-tier municipality if a member of the council of the upper-tier municipality is to be elected to the council by the electors of all or part of one or more lower-tier municipalities within the upper-tier municipality. 2002, c. 17, Sched. F, Table.

Exception

(2) This section and section 11.2 do not apply if the member mentioned in subsection (1) is to be elected also to the council of a lower-tier municipality within the upper-tier municipality. 2002, c. 17, Sched. F, Table.

Responsibility of upper-tier clerk

(3) Subject to subsection (5), the clerk of the upper-tier municipality is the person responsible for conducting an election for the office of a member mentioned in subsection (1). 2002, c. 17, Sched. F, Table.

Filing of nominations

(4) Nominations for the office shall be filed with the clerk of the upper-tier municipality who shall send the names of the candidates within 48 hours after the closing of nominations to the clerk of each lower-tier municipality in which the election is to be held. 2002, c. 17, Sched. F, Table; 2016, c. 15, s. 9.

Responsibility of lower-tier clerk

(5) The clerk of each lower-tier municipality in which an election is to be held for the office of a member mentioned in subsection (1) is the person responsible for conducting the election in the lower-tier municipality and shall promptly report the vote recorded to the clerk of the upper-tier municipality who shall prepare the final summary and announce the result of the vote. 2002, c. 17, Sched. F, Table.

v **Section Amendments with date in force (d/m/y)**

Regulations

11.2 (1) Despite this Act, the Minister may by regulation provide for those matters which, in the opinion of the Minister, are necessary or expedient to conduct the election of the members of the council of an upper-tier municipality that is mentioned in section 11.1 and the members of the councils of its lower-tier municipalities. 2002, c. 17, Sched. F, Table.

Scope

(2) A regulation under subsection (1) may be general or specific in its application. 2002, c. 17, Sched. F, Table.

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v **Section Amendments with date in force (d/m/y)**

Powers of clerk

12 (1) A clerk who is responsible for conducting an election may provide for any matter or procedure that,

(a) is not otherwise provided for in an Act or regulation; and

(b) in the clerk's opinion, is necessary or desirable for conducting the election. 1996, c. 32, Sched., s. 12 (1).

Forms

(2) The power conferred by subsection (1) includes power to establish forms, including forms of oaths and statutory declarations, and power to require their use. 1996, c. 32, Sched., s. 12 (2).

Proof of identification, qualification, etc.

(3) Subject to subsection (4), the power conferred by subsection (1) includes power to require a person, as a condition of doing anything or having an election official do anything under this Act, to furnish proof that is satisfactory to the election official of the person's identity or qualifications, including citizenship or residency, or of any other matter. 1996, c. 32, Sched., s. 12 (3); 2002, c. 17, Sched. D, s. 4; 2016, c. 15, s. 10 (1).

Exception

(4) The power conferred by subsection (1) does not include the power to require a person, for the purposes of the procedure set out in subsection 52 (1), to furnish proof of identity and residence in addition to what is prescribed for the purposes of subparagraph 1 ii of subsection 52 (1). 2016, c. 15, s. 10 (2).

v **Section Amendments with date in force (d/m/y)**

Electors and candidates with disabilities

12.1 (1) A clerk who is responsible for conducting an election shall have regard to the needs of electors and candidates with disabilities. 2009, c. 33, Sched. 21, s. 8 (8).

Plan re barriers

(2) The clerk shall prepare a plan regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the plan available to the public before voting day in a regular election. 2016, c. 15, s. 11.

Report

(3) Within 90 days after voting day in a regular election, the clerk shall prepare a report about the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the report available to the public. 2016, c. 15, s. 11.

v **Section Amendments with date in force (d/m/y)**

Notice by clerk

13 (1) Any notice or other information that this Act requires the clerk to give shall be given in a form and manner and at a time that the clerk considers adequate to give reasonable notice or to convey the information, as the case may be. 1996, c. 32, Sched., s. 13 (1).

Information about rights under Act

(2) The clerk shall provide electors, candidates and persons who are eligible to be electors with information to enable them to exercise their rights under this Act. 1996,

c. 32, Sched., s. 13 (2).

Original documents

14 (1) A document that is filed with an election official under section 33, 44 or 88.6 shall bear only original signatures. 1996, c. 32, Sched., s. 14; 2016, c. 15, s. 12.

Exception — electronic filing

(2) Subsection (1) does not apply if the clerk has provided for electronic filing of the document. 2021, c. 5, Sched. 4, s. 1.

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v **Section Amendments with date in force (d/m/y)**

Deputy returning officer and other election officials

15 (1) When it is necessary to conduct an election, the clerk shall appoint a deputy returning officer for each voting place established under section 45 and may appoint any other election officials for the election and for any recount that the clerk considers are required. 1996, c. 32, Sched., s. 15 (1).

Delegation

(2) 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. 1996, c. 32, Sched., s. 15 (2).

Clerk retains powers and duties

(3) The clerk may continue to exercise the delegated powers and duties, despite the delegation. 1996, c. 32, Sched., s. 15 (3).

Delegation in writing

(4) The delegation shall be in writing. 1996, c. 32, Sched., s. 15 (4).

SCRUTINEERS

Scrutineers at election of candidate

16 (1) A candidate may appoint scrutineers to represent him or her during voting and at the counting of votes, including a recount. 1996, c. 32, Sched., s. 16 (1).

Same, at vote on by-law or question

(2) A municipality may appoint scrutineers in relation to voting on a by-law or question submitted to the electors, to attend at a voting place and at the counting of votes, including a recount. 1996, c. 32, Sched., s. 16 (2).

Same, question submitted by local board or Minister

(3) When a local board or the Minister has submitted a question to the electors, subsection (2) applies with necessary modifications. 1996, c. 32, Sched., s. 16 (3).

Scrutineers for applicant under s. 58

(4) An elector who applies for a recount under section 58 may appoint scrutineers to represent him or her at the recount. 1996, c. 32, Sched., s. 16 (4).

Manner of appointment

(5) The appointment of a scrutineer shall be in writing if made by a candidate or applicant or by the Minister, and by resolution if made by a municipality or local board. 1996, c. 32, Sched., s. 16 (5).

Proof of appointment

(6) A scrutineer shall, on request, show proof of his or her appointment to the election official in charge of a voting place or of a place where votes are being counted. 1996, c. 32, Sched., s. 16 (6).

Voters' List

Qualifications of electors

17 (1) Repealed: 2002, c. 17, Sched. D, s. 5 (1).

Qualifications

(2) A person is entitled to be an elector at an election held in a local municipality if, on voting day, he or she,

(a) resides in the local municipality or is the owner or tenant of land there, or the spouse of such owner or tenant;

(b) is a Canadian citizen;

(c) is at least 18 years old; and

(d) is not prohibited from voting under subsection (3) or otherwise by law. 2002, c. 17, Sched. D, s. 5 (2); 2005, c. 5, s. 46 (1).

Persons prohibited from voting

(3) The following are prohibited from voting:

1. A person who is serving a sentence of imprisonment in a penal or correctional institution.

2. A corporation.

3. A person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with section 44.

4. A person who was convicted of the corrupt practice described in subsection 90 (3), if voting day in the current election is less than five years after voting day in the election in respect of which he or she was convicted. 1996, c. 32, Sched., s. 17 (3); 2006, c. 9, Sched. H, s. 4.

Status as tenant

(4) Despite the definitions of "owner or tenant" and "tenant" in subsection 1 (1), a regulation may specify circumstances in which a person is, and is not, considered to be a tenant for the purposes of clause (2) (a). 2016, c. 15, s. 13.

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v **Section Amendments with date in force (d/m/y)**

Voting subdivisions

18 (1) On or before March 31 in each year in which there is a regular election, the clerk of each local municipality may divide the local municipality into voting subdivisions. 2016, c. 15, s. 14.

Notice to C.E.O.

(2) A clerk who acts under subsection (1) shall, on or before March 31 in the year of the regular election, inform the Chief Electoral Officer of the boundaries of the voting subdivisions. 2020, c. 23, Sched. 4, s. 3.

v **Section Amendments with date in force (d/m/y)**

Preliminary list

19 (1) The Chief Electoral Officer shall prepare and maintain a preliminary list for each local municipality and make it available to the clerk. 2020, c. 23, Sched. 4, s. 4 (1).

(1.1), (1.2) Repealed: 2020, c. 23, Sched. 4, s. 4 (1).

Subdivisions

(2) If the local municipality is divided into voting subdivisions, the preliminary list must contain a preliminary list for each voting subdivision. 2020, c. 23, Sched. 4, s. 4 (1).

Permanent register

(3) The preliminary list must be based on the permanent register of electors. 2020, c. 23, Sched. 4, s. 4 (1).

Access to list

(3.1) The clerk may obtain the preliminary list, or any information from the preliminary list, at one or more times before September 1 in the year of a regular election. 2020, c. 23, Sched. 4, s. 4 (1).

(3.2)-(3.4) Repealed: 2020, c. 23, Sched. 4, s. 4 (1).

Contents

(4) The preliminary list shall contain,

(a) the name and address of each person who is entitled to be an elector under section 17; and

(b) any additional information the clerk needs to determine for which offices each elector is entitled to vote. 1996, c. 32, Sched., s. 19 (4).

Voting subdivisions, residents and non-residents

(5) If the local municipality is divided into voting subdivisions,

(a) the name of each resident elector shall be included on the preliminary list for the voting subdivision in which he or she resides; and

(b) the name of each non-resident elector shall be included on the preliminary list for the voting subdivision in which the elector or his or her spouse is an owner or tenant of land. 1996, c. 32, Sched., s. 19 (5); 1999, c. 6, s. 43 (2); 2005, c. 5, s. 46 (2); 2020, c. 23, Sched. 4, s. 4 (2).

One entry only

(6) An elector's name shall appear on the preliminary list for a local municipality only once. 1996, c. 32, Sched., s. 19 (6).

Same

(7) For greater certainty, if a municipality is divided into wards, an elector is entitled to vote only in the ward where he or she resides, even if the elector resides in one ward and is the owner or tenant of land in a different ward or is the spouse of an owner or tenant of land in a different ward. 2016, c. 15, s. 15.

v **Section Amendments with date in force (d/m/y)**

Homeless persons

20 The Chief Electoral Officer is not required to include on a preliminary list the name of a person whose residence is determined under subsection 2 (3). 2020, c. 23, Sched. 4, s. 5.

v **Section Amendments with date in force (d/m/y)**

21 Repealed: 2016, c. 15, s. 16.

v **Section Amendments with date in force (d/m/y)**

Correction of errors

22 (1) The clerk may correct any obvious error in the preliminary list and shall notify the Chief Electoral Officer of the corrections. 1996, c. 32, Sched., s. 22; 2006, c. 33, Sched. Z.3, s. 18 (3); 2020, c. 23, Sched. 4, s. 6.

Same

(2) For the purposes of subsection (1), the clerk may use any information that is in the local municipality's custody or control. 2009, c. 33, Sched. 21, s. 8 (11).

Same

(3) Information in the local municipality's custody or control that is used by the clerk for the purposes of subsection (1) is deemed to have been collected for the purpose of correcting errors in the preliminary list. 2009, c. 33, Sched. 21, s. 8 (11).

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v **Section Amendments with date in force (d/m/y)**

Voters' list

23 (1) The preliminary list, as corrected under section 22, constitutes the voters' list. 1996, c. 32, Sched., s. 23 (1).

Reproduction, revision arrangements

(2) On or before September 1 in the year of a regular election, the clerk shall,

(a) have the voters' list reproduced; and

(b) determine where and at what time applications for revisions to the voters' list may be made under sections 24 and 25. 1996, c. 32, Sched., s. 23 (2).

Copies for local boards, municipalities, Minister

(3) On written request, the clerk shall provide a copy of the voters' list to,

(a) the secretary of a local board any of whose members are required to be elected at an election conducted by the clerk, or that has submitted a question to the electors;

(b) the clerk of the local municipality responsible for conducting the elections in any combined area for school board purposes;

(c) the clerk of an upper-tier municipality any of whose members are required to be elected at an election conducted by the clerk, or that has submitted a by-law or question to the electors;

(d) the Minister, if he or she has submitted a question to the electors; and

(e) REPEALED: 2016, c. 15, s. 17 (1).

1996, c. 32, Sched., s. 23 (3); 2009, c. 33, Sched. 21, s. 8 (12); 2016, c. 15, s. 17 (1).

Copies for candidates

(4) On the written request of a certified candidate for an office, the clerk shall provide him or her with the part of the voters' list that contains the names of the electors who are entitled to vote for that office. 1996, c. 32, Sched., s. 23 (4); 2016, c. 15, s. 17 (2).

Same

(5) The clerk shall not provide a copy of the voters' list under subsection (3) or a part of the voters' list under subsection (4) until September 1. 2016, c. 15, s. 17 (3).

Redacted information

(6) A copy of the voters' list provided under subsection (3) or a part of the voters' list provided under subsection (4) shall not contain information about a person that has been redacted under section 4.7 of the *Election Act*. 2020, c. 23, Sched. 4, s. 7.

Restrictions

(7) The clerk may not provide a copy of the voters' list under subsection (3) or a part of the voters' list under subsection (4) to a person unless the person provides a written acknowledgment that they,

(a) shall only use it for electoral purposes and shall not use it for commercial purposes;

(b) are bound by the restrictions in this subsection and subsection (8); and

(c) may only disclose its content to others after obtaining their written acknowledgement that they are bound by the restrictions in this subsection and subsection (8). 2020, c. 23, Sched. 4, s. 7.

Further rules

(8) The following rules apply to persons who are required to provide a written acknowledgment under subsection (7):

1. In the case of a person who has been provided with a copy of the voters' list from a person described in clauses (3) (a) to (c) or part of the voters' list from a certified candidate under subsection (4),

i. they shall not provide it to any other person, and shall not make further copies, either in printed form or electronically,

ii. if they received a printed copy, they shall return it to the person who provided it, on or before the date specified by that person, and

iii. if they received an electronic copy, they shall destroy it, and shall provide the person who provided it with a written acknowledgment of the destruction, on or before the date specified by that person.

2. Where a person has been provided with a copy of the voters' list under clauses (3) (a) to (c) or a certified candidate has been provided with part of the voters' list under subsection (4), and they have provided it to another person, they shall retain the written acknowledgement provided by each person to whom they provided it, in accordance with paragraph 5.

3. A person who has been provided with a copy of the voters' list under clauses (3) (a) to (c) shall, on or before December 31 in the year of a regular election or 45 days after voting day in a by-election,

i. destroy the copy of the voters' list,

ii. destroy any printed copies returned to them under subparagraph 1 ii, and

iii. require the receipt of the written acknowledgments of destruction that are to be provided to them under subparagraph 1 iii.

4. A certified candidate who has been provided with part of the voters' list under subsection (4) shall, on or before the day when the candidate's election campaign period ends under subsection 88.24 (1),

i. destroy the part of the voters' list,

ii. destroy any printed copies returned to them under subparagraph 1 ii, and

iii. require the receipt of the written acknowledgments of destruction that are to be provided to them under subparagraph 1 iii.

5. The written acknowledgements received under this section shall be retained for the term of office of the council or local board and until their successors are elected and the newly elected council or local board is organized. 2020, c. 23, Sched. 4, s. 7.

v **Section Amendments with date in force (d/m/y)**

Application for change re own name

24 (1) During the period that begins on September 1 and ends at the close of voting on voting day, a person may make an application to the clerk requesting,

(a) that the person's name be added to or removed from the voters' list; or

(b) that information on the voters' list relating to the person be amended. 1996, c. 32, Sched., s. 24 (1); 2016, c. 15, s. 18 (1).

Form and manner of application

(2) The application shall be in writing and shall be filed,

(a) in person, by the applicant or his or her agent;

(b) by mail, by the applicant; or

(c) in any other format and manner that the clerk specifies. 1996, c. 32, Sched., s. 24 (2); 2016, c. 15, s. 18 (2).

Application approved

(3) 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 or notify the applicant that the application has been approved and the voters' list will be changed to reflect the approved application. 1996, c. 32, Sched., s. 24 (3); 2002, c. 17, Sched. D, s. 6.

Application refused

(4) If not satisfied that the applicant is entitled to have the requested change made, the clerk shall,

(a) note the reason for refusal on the application; and

(b) return the annotated application to the applicant. 1996, c. 32, Sched., s. 24 (4).

Addition of name to permanent register

(5) When a person's name is added to the voters' list under this section, it shall also be added to the permanent register of electors, unless the person objects. 2020, c. 23, Sched. 4, s. 8.

Deletion of name from permanent register

(6) When a person's name is removed from the voters' list under this section, it shall also be deleted from the permanent register of electors, unless the person objects. 2020, c. 23, Sched. 4, s. 8.

v **Section Amendments with date in force (d/m/y)**

Removal of deceased person's name from voters' list

25 (1) The clerk may, on his or her own initiative, remove a person's name from the voters' list until the close of voting on voting day if the clerk is satisfied that the person has died. 2016, c. 15, s. 19.

Same, upon application

(2) The clerk shall remove a person's name from the voters' list upon receiving an application under subsection (3) if the clerk is satisfied that the person has died. 2016, c. 15, s. 19.

Timing of application

(3) A person may make an application to the clerk requesting that a deceased person's name be removed from the voters' list during the period that begins on September 1 and ends at the close of voting on voting day. 2016, c. 15, s. 19.

Form and manner of application

(4) The application shall be in writing and shall be filed,

(a) in person, by the applicant or his or her agent;

(b) by mail, by the applicant; or

(c) in any other format and manner that the clerk specifies. 2016, c. 15, s. 19.

v **Section Amendments with date in force (d/m/y)**

Clerk's decision final

26 The clerk's decision under section 24 or 25 is final. 1996, c. 32, Sched., s. 26.

List of changes

Interim list

27 (1) During the period beginning on September 20 and ending on September 30 in the year of a regular election, the clerk shall,

(a) prepare an interim list of changes to the voters' list that,

(i) must include changes approved under sections 24 and 25 on or before September 20, and

(ii) may include changes based on updated information from the permanent register of electors that the clerk obtains on or before September 20; and

(b) give a copy of the interim list to each person who received a copy of the voters' list under section 23. 2020, c. 23, Sched. 4, s. 9.

Final list

(2) Within 30 days after voting day, the clerk shall,

(a) prepare a final list of the changes to the voters' list approved under sections 24 and 25; and

(b) give a copy of the final list of changes to the Chief Electoral Officer. 2020, c. 23, Sched. 4, s. 9.

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v **Section Amendments with date in force (d/m/y)**

Voters' list

28 (1) The clerk shall prepare and certify the voters' list for use in each voting place established under section 45. 1996, c. 32, Sched., s. 28 (1).

Same

(2) In preparing the voters' list, the clerk,

(a) shall determine which electors appear on the voters' list for each voting place;

(b) shall remove the names that are shown in the interim list of changes as names to be removed; and

(c) may make any other changes approved under section 24. 1996, c. 32, Sched., s. 28 (2).

CANDIDATES

Who may be nominated

29 (1) A person may be nominated for an office only if, as of the day the person is nominated,

(a) he or she is qualified to hold that office under the Act that creates it; and

(b) he or she is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold the office. 1996, c. 32, Sched., s. 29 (1); 2002, c. 17, Sched. D, s. 8 (1).

Certain persons eligible to be nominated

(1.1) Despite subsection (1) and despite section 258 of the *Municipal Act, 2001*, section 203 of the *City of Toronto Act, 2006*, section 9 of the *Legislative Assembly Act* and section 219 of the *Education Act*, a member of the Legislative Assembly of Ontario or the Senate or House of Commons of Canada is not ineligible to be nominated for an office in an election by virtue of being a member of any of those bodies but, if the person is a member of any of those bodies as of the close of nominations on nomination day of the election, the nomination shall be rejected by the clerk under section 35. 2002, c. 17, Sched. D, s. 8 (2); 2006, c. 32, Sched. C, s. 34 (1).

Exclusion

(1.2) Subsection (1.1) does not apply to a member of the Executive Council of Ontario or a federal Minister of the Crown. 2002, c. 17, Sched. D, s. 8 (2).

Nomination for one office only

(2) If a person who has been nominated for an office is nominated for another office to which this Act applies, the first nomination shall be deemed to have been withdrawn at the time the second nomination is filed. 1996, c. 32, Sched., s. 29 (2).

Name on ballot for more than one office

(2.1) Despite the fact that the first nomination is deemed withdrawn under subsection (2), if a person's name appears on the ballots for more than one office to which this Act

applies, section 261 of the *Municipal Act, 2001* or section 206 of the *City of Toronto Act, 2006*, as the case may be, applies. 2002, c. 17, Sched. D, s. 8 (3); 2006, c. 32, Sched. C, s. 34 (2).

Separate nomination for each person

(3) Each person to be nominated for election to an office shall be nominated by a separate nomination. 1996, c. 32, Sched., s. 29 (3).

In municipality divided into wards

(4) If a municipality is divided into wards, a person is eligible to be nominated for an office in an election in any ward of the municipality. 2016, c. 15, s. 21.

Same

(5) Subsection (4) applies despite any order of the Ontario Land Tribunal, order of the Minister under section 173 of the *Municipal Act, 2001* or section 149 of the *City of Toronto Act, 2006* or order of a commission under section 175 of the *Municipal Act, 2001*. 2016, c. 15, s. 21; 2021, c. 4, Sched. 6, s. 68.

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v **Section Amendments with date in force (d/m/y)**

Employee of municipality or local board

30 (1) An employee of a municipality or local board is eligible to be a candidate for and to be elected as a member of the council or local board that is the employer if he or she takes an unpaid leave of absence beginning as of the day the employee is nominated and ending on voting day. 1996, c. 32, Sched., s. 30 (1); 2002, c. 17, Sched. D, s. 9 (1).

Notice of leave

(2) The employee shall give the council or local board written notice, in advance, of his or her intention to take unpaid leave under subsection (1). 1996, c. 32, Sched., s. 30 (2).

Right to unpaid leave

(3) The employee is entitled, as of right, to take unpaid leave under subsection (1). 2002, c. 17, Sched. D, s. 9 (2).

Vacation and overtime pay

(3.1) Despite subsection (1), an employee of a municipality or local board is entitled to be paid out any vacation pay or overtime pay owing to the employee during the period of the unpaid leave of absence and the fact that these payments may be paid on a weekly or other regular basis does not affect the unpaid leave status of the employee. 2002, c. 17, Sched. D, s. 9 (3).

Resignation

(4) If the employee is elected to the office, he or she shall be deemed to have resigned from the employment immediately before making the declaration of office referred to in subsection 232 (1) of the *Municipal Act, 2001*, section 186 of the *City of Toronto Act, 2006* or section 209 of the *Education Act*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 34 (3).

Same

(5) Subsection (4) also applies to an employee of a municipality or local board who by being elected to the council of another municipality or to another local board also becomes a member of the council or local board that is the employer. 1996, c. 32, Sched., s. 30 (5).

Continuous service

(6) If an employee who takes a leave of absence under subsection (1) is not elected, the leave shall not be counted in determining the length of his or her service for any purpose, and the service before and after the leave shall be deemed to be continuous for all purposes. 1996, c. 32, Sched., s. 30 (6).

Volunteer firefighters

(7) A person shall not be considered an employee of a municipality or local board for the purposes of this section by reason only of being a volunteer firefighter as defined in the *Fire Protection and Prevention Act, 1997*. 1996, c. 32, Sched., s. 30 (7); 2009, c. 33, Sched. 21, s. 8 (13).

Non-employees

(8) This section applies with necessary modifications to a person who is not an employee and who is described in subparagraph 1 ii or iii of subsection 258 (1) of the *Municipal Act,*

2001 or subparagraph 1 ii or iii of subsection 203 (1) of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 34 (4).

v **Section Amendments with date in force (d/m/y)**

Nomination day

31 Nomination day for a regular election is the third Friday in August in the year of the election. 2016, c. 15, s. 22; 2020, c. 26, Sched. 2, s. 4.

v **Section Amendments with date in force (d/m/y)**

Notice

32 The clerk shall give notice of the offices for which persons may be nominated and of the nomination procedure under this Act. 1996, c. 32, Sched., s. 32.

Filing of nomination

33 (1) A person may be nominated for an office by filing a nomination,

(a) in the clerk's office, in person or by an agent; or

(b) if the clerk has provided for electronic filing under subsection (6), electronically. 2021, c. 5, Sched. 4, s. 2 (1).

Endorsement of nominations for council

(1.1) Subject to subsection (1.4), the nomination of a person for an office on a council must be endorsed by at least 25 persons, and they may endorse more than one nomination. 2016, c. 15, s. 23 (1); 2017, c. 10, Sched. 4, s. 8 (4).

Same

(1.2) Persons endorsing a nomination under subsection (1.1) must be eligible to vote in an election for an office within the municipality, if a regular election was held on the day that the person endorses the nomination. 2016, c. 15, s. 23 (1).

Same

(1.2.1) For greater certainty, endorsements of a nomination under subsection (1.1) shall be collected as original signatures even if the clerk has provided for electronic filing.

2021, c. 5, Sched. 4, s. 2 (2).

Same

(1.2.2) A person who electronically files a nomination for an office on a council that must be endorsed by at least 25 persons shall retain the copy of the document bearing the original endorsement signatures. 2021, c. 5, Sched. 4, s. 2 (2).

Same

(1.3) The clerk is entitled to rely upon the information filed by the candidate under clause (2) (a.1), and a nomination certified by the clerk under section 35 is conclusive evidence that all conditions precedent under subsection (1.1) have been complied with. 2016, c. 15, s. 23 (1).

Exception, number of electors

(1.4) Subsection (1.1) does not apply to a nomination in a municipality in which the number of electors who were eligible to vote in the previous regular election in the municipality is less than the prescribed number. 2017, c. 10, Sched. 4, s. 8 (5).

Same

(1.5) For the purposes of subsection (1.4), the number of electors who were eligible to vote shall be the number determined from the voters' list from the previous regular election as it existed at the close of voting on voting day. 2017, c. 10, Sched. 4, s. 8 (5).

Formal requirements

(2) The nomination shall,

(a) be in the prescribed form;

(a.1) in the case of a nomination for an office on a council that must be endorsed by at least 25 persons, be endorsed in accordance with subsection (1.1) and be accompanied by a prescribed declaration by each of the persons endorsing the nomination;

(b) be accompanied by a declaration of qualification in the prescribed form, signed by the person being nominated; and

(c) be accompanied by the prescribed nomination filing fee. 1996, c. 32, Sched., s. 33 (2); 2002, c. 17, Sched. D, s. 11; 2016, c. 15, s. 23 (2); 2017, c. 10, Sched. 4, s. 8 (6).

Exception, endorsement

(2.1) If the person was previously nominated for an office on the same council in the same election and at that time filed the endorsed nomination and declarations described in clause (2) (a.1), that clause does not apply in connection with any subsequent campaign under subsection 88.24 (3). 2016, c. 15, s. 23 (3).

Exception, nomination filing fee

(3) If the person was previously nominated for an office on the same council or local board in the same election and paid the nomination filing fee at that time, clause (2) (c) does not apply in connection with any subsequent campaign under paragraph 1 of subsection 88.24 (3). 2016, c. 15, s. 23 (4).

Time for filing

(4) The nomination may be filed,

(a) on any day on or after May 1 in the year of the regular election that is before nomination day, at a time when the clerk's office is open; or

(b) on nomination day, between 9 a.m. and 2 p.m. 1996, c. 32, Sched., s. 33 (4); 2009, c. 33, Sched. 21, s. 8 (15); 2016, c. 15, s. 23 (5).

Same

(4.1) Despite clause (4) (b), if a person is present at the clerk's office on nomination day at 2 p.m. and has not yet filed a nomination, he or she may file the nomination as soon as possible after 2 p.m. 2016, c. 15, s. 23 (6).

Exception for additional nominations

(5) If the number of nominations filed for an office and certified under section 35 is less than the number of persons to be elected to the office, additional nominations may be filed between 9 a.m. and 2 p.m. on the Wednesday following nomination day. 1996, c. 32, Sched., s. 33 (5); 2009, c. 33, Sched. 21, s. 8 (16).

Electronic filing

(6) The clerk may provide for electronic filing under this section and may establish conditions and limits with respect to electronic filing. 2021, c. 5, Sched. 4, s. 2 (2).

v **Section Amendments with date in force (d/m/y)**

Certificate, permitted amount of candidate's expenses

33.0.1 (1) As soon as practicable upon the filing of a person's nomination, the clerk shall calculate the applicable maximum amount of the person's expenses for the purposes of subsection 88.20 (6), as of the filing date, using the number of electors referred to in paragraph 1 of subsection 88.20 (11), and shall give the person, or the agent filing the nomination for the person, a certificate of the applicable maximum amount as of the filing date. 2016, c. 15, s. 24; 2021, c. 5, Sched. 4, s. 3.

Calculation final

(2) The clerk's calculation is final. 2009, c. 33, Sched. 21, s. 8 (17).

v **Section Amendments with date in force (d/m/y)**

Certificate, permitted amount of contributions to a candidate's own campaign

33.0.2 (1) As soon as practicable upon the filing of a person's nomination, the clerk shall calculate the applicable maximum amount for the purposes of subsection 88.9.1 (1), as of the filing date, using the number of electors referred to in paragraph 1 of subsection 88.9.1 (2), and shall give the person, or the agent filing the nomination for the person, a certificate of the applicable maximum amount as of the filing date. 2017, c. 10, Sched. 4, s. 8 (7); 2021, c. 5, Sched. 4, s. 4.

Calculation final

(2) The clerk's calculation is final. 2017, c. 10, Sched. 4, s. 8 (7).

v **Section Amendments with date in force (d/m/y)**

Notice of penalties

33.1 The clerk shall, before voting day, give to each person nominated for an office notice of,

(a) the penalties under subsections 88.23 (2) and 92 (1) related to election campaign finances; and

(b) the refund of the nomination filing fee that the candidate is entitled to receive in the circumstances described in section 34. 2016, c. 15, s. 25.

v **Section Amendments with date in force (d/m/y)**

Refund

34 A candidate is entitled to receive a refund of the nomination filing fee if the documents required under subsection 88.25 (1) are filed on or before 2 p.m. on the filing date in accordance with that subsection. 2016, c. 15, s. 26.

v **Section Amendments with date in force (d/m/y)**

Examination of nominations

35 (1) The clerk shall examine each nomination that has been filed, in accordance with the following timetable:

1. All nominations filed on or before nomination day shall be examined before 4 p.m. on the Monday following nomination day.

2. Any additional nominations filed under subsection 33 (5) shall be examined before 4 p.m. on the Thursday following nomination day. 1996, c. 32, Sched., s. 35 (1).

Certification

(2) If satisfied that a person is qualified to be nominated and that the nomination complies with this Act, the clerk shall certify the nomination by signing the nomination paper. 1996, c. 32, Sched., s. 35 (2).

Rejection

(3) If not satisfied that a person is qualified to be nominated or that the nomination complies with this Act, the clerk shall reject the nomination. 1996, c. 32, Sched., s. 35 (3).

Notice

(4) When the clerk rejects a nomination, he or she shall, as soon as possible, give notice of the fact to the person who sought to be nominated and to all candidates for the office. 1996, c. 32, Sched., s. 35 (4).

Clerk's decision final

(5) The clerk's decision to certify or reject a nomination is final. 1996, c. 32, Sched., s. 35 (5).

Withdrawal of nominations

36 A person may withdraw his or her nomination by filing a written withdrawal in the clerk's office,

(a) before 2 p.m. on nomination day, if the person was nominated under subsection 33 (4);

(b) before 2 p.m. on the Wednesday following nomination day, if the person was nominated under subsection 33 (5). 2009, c. 33, Sched. 21, s. 8 (18).

v **Section Amendments with date in force (d/m/y)**

Acclamations

37 (1) If, at 4 p.m. on the Monday following nomination day, the number of certified candidates for an office is the same as or less than the number to be elected, the clerk shall immediately declare the candidate or candidates elected by acclamation. 1996, c. 32, Sched., s. 37 (1); 2009, c. 33, Sched. 21, s. 8 (19).

Same, after additional nominations

(2) If additional nominations have been filed under subsection 33 (5) and if, at 4 p.m. on the Thursday following nomination day, the number of certified candidates still does not exceed the remaining number of vacancies, the clerk shall immediately declare the additional candidate or candidates elected by acclamation. 1996, c. 32, Sched., s. 37 (2); 2009, c. 33, Sched. 21, s. 8 (20).

Filling vacancies, school boards

(3) If an office remains vacant on a school board after the declaration of the election of candidates by acclamation under this section and the declaration of the election of candidates following the conduct of the election for offices on the board, the following rules apply:

1. If the number of candidates declared elected is insufficient to fill the majority of positions on the board, a by-election shall be held.

2. If the number of candidates declared elected is sufficient to fill the majority of positions on the board, section 38 applies. If it is not possible to fill the vacancies under that section, a by-election shall be held. 1996, c. 32, Sched., s. 37 (3); 1997, c. 31, s. 157 (3-5); 2002, c. 17, Sched. D, s. 13 (1).

By-election restricted to geographic area

(3.1) A by-election required under subsection (3) shall be held only in the geographic area in which the number of candidates declared elected is insufficient. 2002, c. 18, Sched. G, s. 13.

Filling vacancies, other offices

(4) If an office remains vacant on any other body after the declaration of the election of candidates by acclamation under this section and the declaration of the election of candidates following the conduct of the election for offices on the body, the following rules apply:

1. If the number of candidates declared elected is insufficient to form a quorum, a by-election shall be held.

2. If the number of candidates declared elected is sufficient to form a quorum, clause 263 (1) (a) of the *Municipal Act, 2001* or clause 208 (1) (a) of the *City of Toronto Act, 2006*, as the case may be, applies. 1996, c. 32, Sched., s. 37 (4); 2002, c. 17, Sched. D, s. 13 (2); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 34 (5).

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v **Section Amendments with date in force (d/m/y)**

Appointment to fill vacancy on school board

38 (1) If this section applies, the candidates declared elected to the school board may appoint a person to fill the vacancy at a meeting of the members called for that purpose. 2002, c. 18, Sched. G, s. 14 (1).

Criteria

(2) A person shall be appointed under subsection (1) only if he or she,

(a) is qualified to be elected as a member of the school board; and

(b) has consented to accept the office if appointed. 1996, c. 32, Sched., s. 38 (2); 2002, c. 18, Sched. G, s. 14 (2).

Vote

(3) If more than one person is nominated to fill a vacancy, the secretary of the school board shall take a vote to determine which person shall fill it. 1996, c. 32, Sched., s. 38 (3).

Who fills vacancy

(4) A person who receives more than half the votes shall fill the vacancy. 1996, c. 32, Sched., s. 38 (4).

Further vote

(5) If no person receives more than half the votes, the secretary shall take another vote, excluding the person who received fewest votes in the previous vote; if two or more persons received fewest votes, the secretary shall choose the person to be excluded by lot. 1996, c. 32, Sched., s. 38 (5).

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v **Section Amendments with date in force (d/m/y)**

Death or ineligibility of candidate

39 If a certified candidate for an office, before the close of voting on voting day, dies or becomes ineligible to hold the office,

(a) if no candidate would be elected by acclamation as a result of the death or ineligibility,

(i) the election shall proceed as if the candidate had not been nominated, and

(ii) the clerk shall omit the candidate's name from the ballots or, if they have already been printed, shall cause notice of the candidate's death or ineligibility to be made available to the public in every voting place;

(b) 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. 2009, c. 33, Sched. 21, s. 8 (21); 2016, c. 15, s. 27.

v **Section Amendments with date in force (d/m/y)**

39.1 Repealed: 2016, c. 15, s. 28.

v **Section Amendments with date in force (d/m/y)**

Before Voting Day

Notice of election information

40 When an election is to be held, the clerk shall give the electors notice of,

(a) the location of the voting places;

(b) the dates and times on which the voting places will be open for voting;

(c) if section 44 (voting proxies) applies, the manner in which electors may use voting proxies; and

(d) if a by-law has been passed under clause 42 (1) (b), (alternative voting methods), the manner in which electors may use the alternative voting method. 1996, c. 32, Sched., s. 40.

Ballots

41 (1) Repealed: 2016, c. 15, s. 29 (1).

Rules for ballots

(2) The following rules apply to ballots:

1. Only the names of certified candidates shall appear on the ballot.

2. The candidates' names shall appear on the ballot in alphabetical order, based on their surnames and, in the case of identical surnames, their forenames.

3. If the candidate wishes and the clerk agrees, another name that the candidate also uses may appear on the ballot instead of or in addition to his or her legal name.

4. No reference to a candidate's occupation, degree, title, honour or decoration shall appear on the ballot.

5. If the surnames of two or more candidates for an office are identical, or in the clerk's opinion, so similar as to cause possible confusion, the clerk shall differentiate the candidates on the ballots as the clerk considers to be appropriate in the circumstances.

6. A space for marking the ballot shall appear to the right of each candidate's name or, in the case of a by-law or question, to the right of each answer.

7. All ballots for the same office or relating to the same by-law or question shall be identical or as nearly alike as possible. 1996, c. 32, Sched., s. 41 (2); 2016, c. 15, s. 29 (2).

Variations for electors with visual impairments

(3) The clerk shall make such changes to some or all of the ballots as he or she considers necessary or desirable to allow electors with visual impairments to vote without the assistance referred to in paragraph 4 of subsection 52 (1). 1996, c. 32, Sched., s. 41 (3); 2001, c. 32, s. 30 (1).

Determination by clerk

(4) The clerk shall determine whether separate or composite ballots shall be used in the election. 1996, c. 32, Sched., s. 41 (4).

Separate and composite ballots

(5) A separate ballot is designed to be used for only one office, by-law or question, as the case may be; a composite ballot is one that combines the contents of two or more separate ballots. 1996, c. 32, Sched., s. 41 (5).

Form of composite ballot

(6) The form of a composite ballot shall conform as closely as possible to the rules set out in subsection (2). 1996, c. 32, Sched., s. 41 (6); 2016, c. 15, s. 29 (3).

v **Section Amendments with date in force (d/m/y)**

41.1, 41.2 REPEALED: 2020, c. 26, Sched. 2, s. 5.

v **Section Amendments with date in force (d/m/y)**

By-laws re voting and vote-counting equipment, alternative voting methods

42 (1) The council of a local municipality may pass by-laws,

(a) authorizing the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators;

(b) authorizing electors to use an alternative voting method, such as voting by mail or by telephone, that does not require electors to attend at a voting place in order to vote. 1996, c. 32, Sched., s. 42 (1).

Application of by-law

(2) A by-law passed under subsection (1) or under a predecessor of it,

(a) applies to a regular election if the by-law is passed on or before May 1 in the year of the election; and

(b) applies to a by-election if the by-law is passed more than 60 days before voting day. 2009, c. 33, Sched. 21, s. 8 (22); 2016, c. 15, s. 31 (1); 2020, c. 26, Sched. 2, s. 6 (1).

Same

(2.1) Despite clause (2) (b), in the case of a by-election,

(a) if the council of a local municipality passes a by-law under clause (1) (a) authorizing the use of voting and vote-counting equipment, the municipality may pass another by-law providing that the first by-law does not apply to the by-election and the municipality may pass a by-law authorizing the use of any voting and vote-counting equipment for the by-election;

(b) if the council of a local municipality passes a by-law under clause (1) (b) authorizing electors to use an alternative voting method, the municipality may pass

another by-law providing that the first by-law does not apply to the by-election and the municipality may pass a by-law authorizing any alternative voting method for the by-election. 2016, c. 15, s. 31 (2).

Procedures and forms

(3) The clerk shall,

(a) establish procedures and forms for the use of,

(i) any voting and vote-counting equipment authorized by by-law, and

(ii) any alternative voting method authorized by by-law; and

(b) provide a copy of the procedures and forms to each candidate when his or her nomination is filed. 2009, c. 33, Sched. 21, s. 8 (22); 2016, c. 15, s. 31 (3).

Same

(4) The following rules apply with respect to the clerk's duties under clause (3) (a):

1. The clerk shall comply with subsection (3),

i. in the case of a regular election, on or before June 1 in the year of the election, and

ii. in the case of a by-election, at least 60 days before the first day on which an elector can vote.

2. The procedures and forms, if they are consistent with the principles of this Act, prevail over anything in this Act and the regulations made under it.

3. Without limiting the generality of clause (3) (a), procedures for the use of vote-counting equipment may provide that,

i. at the time when and in the place where the votes are being counted, there shall be no more than one scrutineer for each certified candidate for each piece of vote-counting equipment, and

ii. at a recount, the persons referred to in subsection 61 (5) are not entitled to examine each ballot as the votes are being counted by the clerk. 2009, c. 33, Sched. 21, s. 8 (22); 2016, c. 15, s. 31 (4, 5); 2020, c. 26, Sched. 2, s. 6 (2).

Effect of by-law on advance votes and voting proxies

(5) When a by-law authorizing the use of an alternative voting method is in effect, sections 43 (advance votes) and 44 (voting proxies) apply only if the by-law so specifies; if the by-law specifies that section 44 applies, it may also establish additional criteria that a person must meet to be entitled to vote by proxy. 1996, c. 32, Sched., s. 42 (5).

Timing, vote counting

(6) When a by-law authorizing the use of voting or vote-counting equipment or an alternative voting method is in effect, the votes shall not be counted until after the close of voting on voting day. 2016, c. 15, s. 31 (6).

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v **Section Amendments with date in force (d/m/y)**

Advance vote

43 (1) Before voting day, each local municipality shall hold an advance vote on one or more dates. 2016, c. 15, s. 32.

Same

(2) Subject to subsection (3), the clerk shall establish,

(a) the date or dates on which the advance vote is held;

(b) the number and location of voting places for the advance vote; and

(c) the hours during which the voting places shall be open for the advance vote, which may be different for different voting places. 2016, c. 15, s. 32.

Same

(3) The advance vote shall not be held more than 30 days before voting day. 2016, c. 15, s. 32.

Voting places, hours of voting

(4) Section 45, except subsection (7), applies to the advance vote with necessary modifications. 1996, c. 32, Sched., s. 43 (4).

Sealing of ballot box, etc.

(5) On each day of the advance vote the deputy returning officer of the voting place shall,

(a) immediately after the close of voting, seal the ballot box so that ballots cannot be deposited in or withdrawn from it without breaking the seal; and

(b) as soon as possible after the close of voting,

(i) prepare a list showing the name of each person who has voted on that day and identifying his or her voting place, and

(ii) deliver to the clerk for safekeeping the ballot box, the list of names, and all other materials and documents related to the advance vote. 1996, c. 32, Sched., s. 43 (5).

Access for candidates

(6) The clerk shall give a copy of any list referred to in subclause (5) (b) (i) to any certified candidate who has made a written request under subsection 23 (4), subject to the restrictions set out in subsections 23 (6) and (7). 2020, c. 23, Sched. 4, s. 10.

Updating of voters' lists

(7) The clerk shall ensure that that voters' lists for all voting places are updated to reflect voting that took place at an advance vote. 1996, c. 32, Sched., s. 43 (7).

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v **Section Amendments with date in force (d/m/y)**

Appointment of voting proxy

44 (1) A person who is entitled to be an elector in a local municipality may appoint another person who is also so entitled as his or her voting proxy, using the prescribed form. 1996, c. 32, Sched., s. 44 (1).

Restrictions

(2) A person shall not,

(a) appoint more than one voting proxy;

(b) act as a voting proxy for more than one other person. 1996, c. 32, Sched., s. 44 (2).

Spouses, etc.

(3) 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. 1996, c. 32, Sched., s. 44 (3); 1999, c. 6, s. 43 (3); 2005, c. 5, s. 46 (3); 2021, c. 4, Sched. 11, s. 24.

Timing

(4) A person shall not appoint a voting proxy for an election until the later of,

(a) the time for the withdrawal of nominations under section 36 has expired for all offices for which the election is being conducted; and

(b) the time when the clerk has certified all persons qualified to be nominated under subsection 35 (2). 2016, c. 15, s. 33.

Same

(4.1) An appointment under subsection (4) does not remain in effect after voting day of the election. 2016, c. 15, s. 33.

Application for clerk's certificate

(5) A person who has been appointed a voting proxy shall,

(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

(b) present the application and the appointing document to the clerk at the clerk's office, or any place designated by the clerk, in person. 1996, c. 32, Sched., s. 44 (5); 2002, c. 17, Sched. D, s. 15 (2).

Time and place

(6) The application may be presented at any time when the clerk's office or other place designated by the clerk is open; on the day of an advance vote held under section 43, the clerk's office and any other place designated by the clerk shall be open for this purpose from noon to 5 p.m. 2002, c. 17, Sched. D, s. 15 (3).

Certificate

(7) If satisfied, after considering the application, that the person who appointed the voting proxy is entitled to do so and that the person appointed is entitled to act as the

other's voting proxy, the clerk shall apply a certificate in the prescribed form to the appointing document. 1996, c. 32, Sched., s. 44 (7).

Production of certified appointing document

(8) A person may vote as a voting proxy only if he or she,

(a) produces to the deputy returning officer the appointing document with the clerk's certificate; and

(b) takes the prescribed oath. 1996, c. 32, Sched., s. 44 (8).

Voting in own right

(9) A person who votes as a voting proxy is also entitled to vote in his or her own right. 1996, c. 32, Sched., s. 44 (9).

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v **Section Amendments with date in force (d/m/y)**

Number and location of voting places

45 (1) The clerk shall establish the number and location of voting places for an election as he or she considers most convenient for the electors. 1996, c. 32, Sched., s. 45 (1).

Accessibility

(2) In establishing the locations of voting places, the clerk shall ensure that each voting place is accessible to electors with disabilities. 2009, c. 33, Sched. 21, s. 8 (23).

Outside voting subdivision or municipality

(3) A voting place may be located outside its voting subdivision and outside its local municipality. 1996, c. 32, Sched., s. 45 (3).

Voting places in certain buildings

(4) A person or body to whom this subsection applies shall on the clerk's request, made at least 14 days before voting day, provide, free of any charge, a space for use as a voting place. 1996, c. 32, Sched., s. 45 (4); 2002, c. 17, Sched. D, s. 16 (1); 2016, c. 15, s. 34 (1).

Same

(5) The space provided shall be acceptable to the clerk and shall not be a space that is being used as a dwelling. 1996, c. 32, Sched., s. 45 (5).

Application of subss. (4) and (5)

(6) Subsections (4) and (5) apply to:

1. Landlords of buildings containing 100 or more dwelling units.

1.1 Condominium corporations managing buildings containing 100 or more dwelling units.

2. Municipalities.

3. School boards.

4. Provincially-funded institutions. 1996, c. 32, Sched., s. 45 (6); 2002, c. 17, Sched. D, s. 16 (2).

Voting places in institutions, retirement homes

(7) On voting day, a voting place shall be provided on the premises of the following:

1. An institution for the reception, treatment or vocational training of members or former members of the Canadian Forces.

2. An institution in which, on September 1, 20 or more beds are occupied by persons who are disabled, chronically ill or infirm.

3. A retirement home in which, on September 1, 50 or more beds are occupied. 1996, c. 32, Sched., s. 45 (7); 2016, c. 15, s. 34 (2, 3).

Attendance on resident

(8) The deputy returning officer for a voting place described in subsection (7) may attend on an elector who is a resident of the institution or retirement home, to allow him or her to vote. 1996, c. 32, Sched., s. 45 (8).

Attendance on electors with disabilities

(9) To allow an elector with a disability to vote, a deputy returning officer shall attend on the elector anywhere within the area designated as the voting place. 2001, c. 32, s. 30 (3).

Other persons

(10) The other persons described in subsection 47 (1) are entitled to accompany a deputy returning officer when he or she attends on an elector under subsection (8) or (9). 1996, c. 32, Sched., s. 45 (10).

v **Section Amendments with date in force (d/m/y)**

VOTING PROCEDURE

Hours of voting, location

46 (1) On voting day, voting places shall be open for the electors to vote from 10 a.m. until 8 p.m. 1996, c. 32, Sched., s. 46 (1).

Earlier opening

(2) The clerk may establish that specified voting places shall be open on voting day at a specified time before 10 a.m. 1996, c. 32, Sched., s. 46 (2); 2016, c. 15, s. 35 (1).

Reduced voting hours, institutions and retirement homes

(3) Despite subsection (1), the clerk may establish reduced voting hours with respect to a voting place described in subsection 45 (7) that is only for the use of residents of the institution or retirement home. 2016, c. 15, s. 35 (2).

In voting place at closing time

(4) An elector who is in a voting place at the time for closing under subsection (1) or (3) and has not yet voted is still entitled to vote. 2016, c. 15, s. 35 (2).

v **Section Amendments with date in force (d/m/y)**

Who may remain in voting place

47 (1) No person shall remain in a voting place when the vote is being taken or the votes are being counted except,

(a) the clerk and the deputy returning officer and any other election official appointed for the voting place;

(b) a certified candidate, other than a candidate who has been declared to be elected by acclamation;

(c) one scrutineer appointed by each person described in clause (b) for each ballot box in use at the voting place;

(d) the scrutineers appointed by a municipality in relation to a by-law or question; and

(e) the scrutineers appointed by a local board or the Minister in relation to a question. 1996, c. 32, Sched., s. 47 (1); 2002, c. 17, Sched. D, s. 17.

Same

(2) The number of scrutineers who may be present under clause (1) (c) is reduced by one while the candidate who appointed them is present in the voting place. 1996, c. 32, Sched., s. 47 (2).

Number of scrutineers re by-law

(3) If the vote is on a by-law and scrutineers are to be appointed under subsection 16 (2),

(a) equal numbers of scrutineers shall be appointed to represent supporters and opponents of the by-law; and

(b) one scrutineer representing supporters and one representing opponents may be present for each ballot box in use at the voting place. 1996, c. 32, Sched., s. 47 (3).

Number of scrutineers re question

(4) If the vote is on a question and scrutineers are to be appointed under subsections 16 (2) and (3),

(a) equal numbers of scrutineers shall be appointed for each possible answer to the question; and

(b) one scrutineer for each of the possible answers may be present for each ballot box in use at the voting place. 1996, c. 32, Sched., s. 47 (4).

Rights of candidates and scrutineers

(5) The persons described in clauses (1) (b), (c), (d) and (e) are each entitled,

(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 in 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. 1996, c. 32, Sched., s. 47 (5).

v **Section Amendments with date in force (d/m/y)**

Prohibition

48 (1) While an elector is in a voting place, no person shall attempt, directly or indirectly, to influence how the elector votes. 1996, c. 32, Sched., s. 48 (1).

No election campaign material

(2) Without limiting the generality of subsection (1), no person shall display a candidate's election campaign material or literature in a voting place. 1996, c. 32, Sched., s. 48 (2).

Interpretation

(3) For the purpose of this section,

"voting place" includes any place in the immediate vicinity of the voting place designated by the clerk. 2002, c. 17, Sched. D, s. 18.

v **Section Amendments with date in force (d/m/y)**

Secrecy

49 (1) Every person who is present in a voting place or at the counting of the votes shall help to maintain the secrecy of the voting. 1996, c. 32, Sched., s. 49 (1).

Offences

(2) No person shall,

(a) interfere or attempt to interfere with an elector who is marking the ballot;

(b) obtain or attempt to obtain, at a voting place, information about how an elector intends to vote or has voted; or

(c) communicate any information obtained at a voting place about how an elector intends to vote or has voted. 1996, c. 32, Sched., s. 49 (2).

Same, revealing a vote

(3) No elector shall,

(a) take a photograph or video recording of his or her marked ballot; or

(b) show his or her marked ballot to any person so as to reveal how he or she has voted, except in connection with obtaining assistance in voting under paragraph 4 of subsection 52 (1). 2016, c. 15, s. 36.

No requirement of disclosure

(4) No person shall, in a legal proceeding relating to an election, be required to disclose how he or she voted at the election. 1996, c. 32, Sched., s. 49 (4).

v **Section Amendments with date in force (d/m/y)**

Elector's absence from work

50 (1) An elector whose hours of employment are such that he or she would not otherwise have three consecutive hours to vote on voting day is entitled to be absent from work for as long as is necessary to allow that amount of time. 1996, c. 32, Sched., s. 50 (1).

Employer's convenience

(2) The absence shall be timed to suit the employer's convenience as much as possible. 1996, c. 32, Sched., s. 50 (2).

No deduction or penalty

(3) The employer shall not make a deduction from the employee's pay or impose any other penalty for the absence from work. 1996, c. 32, Sched., s. 50 (3).

Elector's right to vote

51 (1) An elector whose name appears on the voters' list for a voting place is entitled to vote there, subject to subsection (2). 1996, c. 32, Sched., s. 51 (1).

Rules

(2) The following rules apply to the exercise of the right to vote:

1. An elector who is entitled to vote for offices on a municipal council or local board may vote in only one of the voting places established for the area of jurisdiction of the municipality or local board, as the case may be.

2. However, an elector who is entitled to vote in more than one of the local municipalities forming part of an upper-tier municipality is entitled to vote in one voting place established for each of the local municipalities for offices on the local councils, even if the holders of the offices would or could under certain circumstances also be members of the upper-tier council.

3. An elector is entitled to vote for as many candidates for an office as there are members to be elected to that office, but only once for each candidate.

4. An elector is entitled to vote only once on a by-law or question.

5. An elector may vote only in accordance with the information relating to him or her on the voters' list. 1996, c. 32, Sched., s. 51 (2).

(3) Repealed: 2020, c. 26, Sched. 2, s. 7.

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v **Section Amendments with date in force (d/m/y)**

Voting procedure

52 (1) The following procedure shall be followed when a person enters a voting place and requests a ballot:

1. Subject to paragraph 3, the deputy returning officer shall give the person a ballot only if,

   i. the deputy returning officer is satisfied that the person is entitled to vote at the voting place, and

   ii. the person presents the prescribed proof of identity and residence or completes an application in the prescribed form, including a statutory declaration that he or she is the elector shown on the voters' list.

2. If the deputy returning officer, a scrutineer or a certified candidate objects to the person voting, the deputy returning officer shall have the fact of the objection and by whom it was made recorded on the voters' list next to the person's name.

3. When an objection has been made as described in paragraph 2, the deputy returning officer shall give the person a ballot if the person takes an oath or affirmation stating that he or she is entitled to be an elector for the voting place and has not already voted in the election.

4. The deputy returning officer may permit an elector who needs assistance in voting to have such assistance as the deputy returning officer considers necessary.

5. An elector is no longer entitled to vote if, after receiving a ballot, he or she leaves the voting place without returning the ballot. 1996, c. 32, Sched., s. 52 (1); 2002, c. 17, Sched. D, s. 19 (1); 2009, c. 33, Sched. 21, s. 8 (24); 2016, c. 15, s. 38 (1).

Amendment of voters' list

(2) On receiving an approved application under section 24 to amend the voters' list, the deputy returning officer shall amend the voters' list in accordance with the application. 1996, c. 32, Sched., s. 52 (2).

Marking ballot, etc.

(3) On receiving the ballot from the deputy returning officer, the elector shall,

(a) make a cross or other mark on the ballot, within the space designated for the marking of the ballot 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 its face; and

(c) return the folded ballot to the deputy returning officer. 1996, c. 32, Sched., s. 52 (3); 2002, c. 17, Sched. D, s. 19 (2).

Deposit in ballot box

(4) On receiving the ballot from the elector, the deputy returning officer shall immediately deposit it in the ballot box, in the full view of the elector and any persons described in clauses 47 (1) (b), (c), (d) and (e) who are in the voting place. 1996, c. 32, Sched., s. 52 (4).

Declining to vote

(5) If an elector returns a ballot to the deputy returning officer and indicates that the elector is declining to vote, the elector is no longer entitled to vote and the deputy returning officer shall immediately write the word “declined” upon the ballot. 2016, c. 15, s. 38 (2).

Same, record

(6) The deputy returning officer shall keep a record of the number of electors who indicate that they are declining to vote. 2016, c. 15, s. 38 (2).

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v **Section Amendments with date in force (d/m/y)**

Emergency

53 (1) The clerk may declare an emergency if he or she is of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with this Act. 1996, c. 32, Sched., s. 53 (1).

Arrangements

(2) On declaring an emergency, the clerk shall make such arrangements as he or she considers advisable for the conduct of the election. 1996, c. 32, Sched., s. 53 (2).

Conflict

(3) The arrangements made 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. 1996, c. 32, Sched., s. 53 (3).

Time

(4) The emergency continues until the clerk declares that it has ended. 1996, c. 32, Sched., s. 53 (4).

No review or setting aside

(5) If made in good faith, the clerk's declaration of emergency and arrangements shall not be reviewed or set aside on account of unreasonableness or supposed unreasonableness. 1996, c. 32, Sched., s. 53 (5).

COUNTING OF VOTES

Counting of votes

54 (1) Immediately after the close of voting on voting day, the deputy returning officer shall open the ballot box for his or her voting place and proceed to count,

(a) in the case of an election for office, the number of votes for each candidate;

(b) in the case of an election to obtain the assent of the electors to a by-law, the number of votes in favour of the by-law and the number opposed to it; and

(c) in the case of an election to obtain the opinion of the electors on any question, the number of votes for each possible answer to the question. 1996, c. 32, Sched., s. 54 (1).

Rejection of ballots

(2) The deputy returning officer shall reject from the count all ballots and votes in a ballot that do not comply with the prescribed rules. 1996, c. 32, Sched., s. 54 (2).

Objections

(3) A scrutineer or certified candidate may object to a ballot, or to the counting of some or all votes in a ballot, on the ground that the ballot or votes do not comply with the prescribed rules. 1996, c. 32, Sched., s. 54 (3).

Duty of deputy returning officer

(4) The deputy returning officer shall,

(a) decide all objections;

(b) establish a list in which the objections are summarized and individually numbered; and

(c) write the number of each objection on the back of the relevant ballot and initial the number. 1996, c. 32, Sched., s. 54 (4).

Delivery of statement and ballot box to clerk

55 (1) As soon as possible after counting the votes, the deputy returning officer shall,

(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;

(c) seal the ballot box so that ballots cannot be deposited in or withdrawn from it without breaking the seal; and

(d) deliver the original statement of results and the ballot box to the clerk. 1996, c. 32, Sched., s. 55 (1).

Copies of statement

(2) A scrutineer or certified candidate is entitled to receive a copy of the statement of results from the clerk, on request. 1996, c. 32, Sched., s. 55 (2).

Results of election

(3) The clerk shall determine the results of the election by compiling the statements of results received from the deputy returning officers. 1996, c. 32, Sched., s. 55 (3).

Declaration

(4) The clerk shall, as soon as possible after voting day,

(a) declare the candidate or candidates, as the case may be, who received the highest number of votes to be elected; and

(b) declare the result of any vote on a by-law or question. 1996, c. 32, Sched., s. 55 (4).

Information to be made available

(4.1) As soon as possible after voting day, the clerk shall make the following information available at no charge for viewing by the public on a website or in another electronic format:

1. The number of votes for each candidate.
2. The number of declined and rejected ballots.
3. The number of votes for the affirmative or negative on a by-law or question. 2016, c. 15, s. 39 (1).

Examination of documents and materials

(5) Despite subsection 88 (6.1), the clerk may, if he or she considers it necessary in order to interpret the statement of results, examine any of the documents and materials in a ballot box in the presence of the relevant deputy returning officer. 1996, c. 32, Sched., s. 55 (5); 2016, c. 15, s. 39 (2).

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v **Section Amendments with date in force (d/m/y)**

RECOUNTS

Recount, tied vote

56 (1) The clerk shall hold a recount,

(a) of the votes for two or more candidates who receive the same number of votes and cannot both or all be declared elected to the office;

(b) of the votes on a by-law, if the votes for the affirmative and negative are equal;

(c) of the votes for two or more answers to a question, if the votes are equal. 1996, c. 32, Sched., s. 56 (1).

Recount in accordance with policies

(1.1) The clerk shall hold a recount in accordance with any policy passed by the municipality or local board under subsection (3) or (4). 2016, c. 15, s. 40 (1).

Time for recount

(2) The recount shall be held within 15 days after the clerk's declaration of the results of the election. 1996, c. 32, Sched., s. 56 (2); 2002, c. 17, Sched. D, s. 20.

Municipality, policy

(3) A municipality may, by by-law, adopt a policy with respect to the circumstances in which the municipality requires the clerk to hold a recount of the votes cast in an election. 2016, c. 15, s. 40 (2).

Local board, policy

(4) A local board may, by resolution, adopt a policy with respect to the circumstances in which the local board requires a recount of the votes cast in an election. 2016, c. 15, s. 40 (2).

Same

(5) A by-law or resolution adopted under subsection (3) or (4),

(a) applies to a regular election if it is passed on or before May 1 in the year of the election; and

(b) applies to a by-election if it is passed more than 60 days before voting day. 2016, c. 15, s. 40 (2).

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v **Section Amendments with date in force (d/m/y)**

Recount for municipality, local board or Minister

57 (1) Within 30 days after the clerk's declaration of the results,

(a) the council of a municipality may pass a resolution requiring a recount of the votes cast,

(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,

(iii) for and against a by-law submitted by the council;

(b) a local board may pass a resolution requiring a recount of the votes cast,

(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. 1996, c. 32, Sched., s. 57 (1).

Recount

(2) The clerk shall hold a recount in accordance with the resolution or order, within 15 days after it is passed or made. 1996, c. 32, Sched., s. 57 (2); 2002, c. 17, Sched. D, s. 21.

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v **Section Amendments with date in force (d/m/y)**

Application for order for recount

58 (1) A person who is entitled to vote in an election and has reasonable grounds for believing the election results to be in doubt may apply to the Superior Court of Justice for an order that the clerk hold a recount. 1996, c. 32, Sched., s. 58 (1); 2002, c. 17, Sched. D, s. 22 (1).

Time for application

(2) The application shall be commenced within 30 days after the clerk's declaration of the results of the election. 1996, c. 32, Sched., s. 58 (2).

Order, notice

(3) If satisfied that there are sufficient grounds for it, the court shall make an order requiring the clerk to hold a recount of the votes cast for all or specified candidates, on a by-law, or for all or specified answers to a question, and shall give the clerk a copy of the order as soon as possible. 1996, c. 32, Sched., s. 58 (3).

Time for recount

(4) The recount shall be held within 15 days after the day the clerk receives a copy of the order. 1996, c. 32, Sched., s. 58 (4); 2002, c. 17, Sched. D, s. 22 (2).

Procedures

(5) The Minister may by regulation establish procedures for applications under this section. 1996, c. 32, Sched., s. 58 (5).

Problems re voting and vote-counting equipment

(6) A request for a recount due to problems related to voting and vote-counting equipment may be made only under this section. 1996, c. 32, Sched., s. 58 (6).

v **Section Amendments with date in force (d/m/y)**

Inclusion of related recount

59 The clerk may conduct, as part of a recount under section 56, 57 or 58 that relates to an office, a recount of the votes cast for another candidate for that office. 1996, c. 32, Sched., s. 59.

Manner of doing recount

60 (1) A recount under section 56, 57 or 58 shall be conducted in the same manner as the original count, whether manually or by vote-counting equipment. 2016, c. 15, s. 41 (1).

Prescribed rules

(2) A recount shall be conducted in accordance with the prescribed rules, subject to subsection (3). 1996, c. 32, Sched., s. 60 (2).

Order specifying different manner of doing recount

(3) Despite subsection (1), if the judge who orders a recount under section 58 is of the opinion that the manner in which the original count was conducted caused or contributed to the doubtful result, he or she may, in the order, provide that the recount shall be held in a different manner and specify the manner. 1996, c. 32, Sched., s. 60 (3); 2016, c. 15, s. 41 (2).

(4) Repealed: 2020, c. 26, Sched. 2, s. 8.

v **Section Amendments with date in force (d/m/y)**

Who may be present at recount, election to office

61 (1) The following persons may be present at a recount under section 56, 57 or 58 that relates to an office:

1. The clerk and any other election official appointed for the recount.

2. Every certified candidate for the office.

3. The applicant, in the case of a recount ordered under section 58.

4. For each person referred to in paragraphs 2 and 3,

i. a lawyer, and

ii. one scrutineer for each recount station established by the clerk. 1996, c. 32, Sched., s. 61 (1).

Same, by-law or question

(2) The following persons may be present at a recount that relates to a by-law or question:

1. The clerk and any other election official appointed for the recount.

2. The scrutineers appointed by the municipality or local board or by the Minister, as the case may be.

3. The applicant, in the case of a recount ordered under section 58.

4. For the applicant referred to in paragraph 3,

i. a lawyer, and

ii. one scrutineer for each recount station established by the clerk. 1996, c. 32, Sched., s. 61 (2).

Number of scrutineers re by-law

(3) If the vote is on a by-law and scrutineers are to be appointed under subsection 16 (2),

(a) equal numbers of scrutineers shall be appointed to represent supporters and opponents of the by-law; and

(b) one scrutineer representing supporters and one representing opponents may be present for each recount station established by the clerk. 1996, c. 32, Sched., s. 61 (3).

Number of scrutineers re question

(4) If the vote is on a question and scrutineers are to be appointed under subsections 16 (2) and (3),

(a) equal numbers of scrutineers shall be appointed for each possible answer to the question; and

(b) one scrutineer for each of the possible answers may be present for each recount station established by the clerk. 1996, c. 32, Sched., s. 61 (4).

Examination of ballot

(5) A person referred to in paragraph 2, 3 or 4 of subsection (1) or (2) is entitled,

(a) to examine each ballot as the votes are being counted by the clerk (but not to touch the ballot); and

(b) to dispute the validity of a ballot or the counting of votes in a ballot. 1996, c. 32, Sched., s. 61 (5).

Determination of disputes

(6) The clerk shall determine a dispute referred to in clause (5) (b). 1996, c. 32, Sched., s. 61 (6).

Other persons

(7) Any other person may also be present at the recount with the clerk's permission. 1996, c. 32, Sched., s. 61 (7).

Duty of clerk

62 (1) When the recount is complete, the clerk shall,

(a) announce the result of the recount; and

(b) if there are disputed ballots,

(i) announce the number of them,

(ii) announce the result that would be obtained if the disputed ballots were excluded, and

(iii) write the number of the voting place on the back of and initial each disputed ballot, place them in a separate envelope clearly marked so as to indicate its contents, and seal the envelope. 1996, c. 32, Sched., s. 62 (1).

Who may be present

(2) Any persons described in subsections 61 (1), (2) and (7) who are at the recount are entitled to be present while the clerk acts under subsection (1). 1996, c. 32, Sched., s. 62 (2).

Tied vote

(3) If the recount indicates that two or more candidates who cannot both or all be declared elected to an office have received the same number of votes, the clerk shall choose the successful candidate or candidates by lot. 1996, c. 32, Sched., s. 62 (3).

Declaration by clerk

(4) If no application has been made for a judicial recount under section 63 the clerk shall, on the 16th day after the recount is completed, declare the successful candidate or candidates elected or declare the result of the vote with respect to a by-law or question, as the case may be. 1996, c. 32, Sched., s. 62 (4).

Application for judicial recount

63 (1) A person described in subsection (2) who disputes the validity of a ballot or of the counting of votes in a ballot may, within 15 days after the clerk announces the result under section 62, apply to the Superior Court of Justice for a recount limited to the disputed ballots. 1996, c. 32, Sched., s. 63 (1); 2002, c. 17, Sched. D, s. 23 (1).

Who may apply

(2) Subsection (1) applies to a certified candidate, an applicant under section 58 or, in the case of a by-law or question, the municipality or local board or the Minister, as the case may be. 1996, c. 32, Sched., s. 63 (2).

Notice of application

(3) Notice of the application shall be served on the clerk and, if the application concerns an office, on each certified candidate. 1996, c. 32, Sched., s. 63 (3).

Summary procedure

(4) The application shall be dealt with in a summary manner, without application records or factums; the recount itself forms part of the hearing of the application. 1996, c. 32, Sched., s. 63 (4).

Clerk to attend and provide materials

(5) The clerk shall attend the recount and provide the court with,

(a) a certified copy of the result of the recount conducted by the clerk;

(b) a certified copy of the result of the recount conducted by the clerk excluding the disputed ballots;

(c) the sealed envelope containing the disputed ballots from the recount conducted by the clerk; and

(d) any other documents relating to the election that are relevant to the application. 1996, c. 32, Sched., s. 63 (5).

Duty of court

(6) The court shall conduct the recount by,

(a) determining the validity of the disputed ballots or of the counting of votes in any disputed ballots; and

(b) recalculating the result of the election using the determinations made under clause (a) and the certified results referred to in clause (5) (b). 1996, c. 32, Sched., s. 63 (6).

Who may be present

(7) Any persons who were present at the recount under section 56, 57 or 58 are entitled to be present at the hearing and recount under this section. 1996, c. 32, Sched., s. 63 (7).

Order

(8) When the recount is complete the court shall,

(a) make an order incorporating its decisions under subsection (6);

(b) announce to the persons present,

(i) the result of the recount, and

(ii) how the court dealt with the disputed ballots;

(c) place the disputed ballots in the original envelope and reseal it; and

(d) return to the clerk the material provided under subsection (5). 1996, c. 32, Sched., s. 63 (8).

Copy of order

(9) The court shall give a certified copy of the order to the clerk. 1996, c. 32, Sched., s. 63 (9).

Tied vote

(10) If the recount indicates that two or more candidates who cannot both or all be declared elected to an office have received the same number of votes, the clerk shall choose the successful candidate or candidates by lot. 1996, c. 32, Sched., s. 63 (10).

Declaration

(11) After receiving the order, the clerk shall declare the successful candidate or candidates to be elected or declare the result of the vote with respect to a by-law or question, as the case may be. 1996, c. 32, Sched., s. 63 (11).

No appeal

(12) Despite section 6 of the *Courts of Justice Act*, an order under this section cannot be appealed. 2002, c. 17, Sched. D, s. 23 (2).

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v **Section Amendments with date in force (d/m/y)**

Right to sit pending final disposition

64 (1) A candidate who has been declared elected under section 55 is entitled to sit and vote on the council or local board until the recount and all applications under this Act have been finally disposed of and a different candidate has been declared elected. 1996, c. 32, Sched., s. 64 (1).

Decisions unaffected

(2) Decisions of a council or local board in which a candidate described in subsection (1) has participated are unaffected even if another candidate is afterwards declared elected as the result of a recount. 1996, c. 32, Sched., s. 64 (2).

By-elections

65 (1) The clerk shall conduct by-elections in accordance with this section. 1996, c. 32, Sched., s. 65 (1).

No by-election after March 31 in year of regular election

(2) Despite any Act, no by-election shall be held to fill an office that becomes vacant after March 31 in the year of a regular election and no by-election shall be held with respect to a question or by-law after March 31 in the year of a regular election unless it is held in conjunction with a by-election for an office. 1996, c. 32, Sched., s. 65 (2); 2002, c. 17, Sched. D, s. 24 (1).

Act applies

(3) Subject to subsections (4) and (5), by-elections shall be conducted as far as possible in the same way as regular elections. 1996, c. 32, Sched., s. 65 (3).

Rules, by-election to office

(4) If a by-election is to be held for an office, the following rules apply:

1. The clerk shall fix the date of nomination day to be a day not less than 30 days and not more than 60 days after,

   i. the expiry of the appeal period with respect to a by-election ordered by a court, if no appeal has been filed,

   i.1 the final disposal of an appeal of a by-election ordered by a court,

   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 makes an order under subsection 266 (1) of the *Municipal Act, 2001* or subsection 211 (1) of the *City of Toronto Act, 2006* declaring all of the offices of the members to be vacant,

v. a candidate for the office dies or becomes ineligible to hold the office under the circumstances described in clause 39 (b), or

vi. the last acclamations are declared under section 37, if the by-election is required by subsection 37 (3) or (4).

2. Nominations may be filed during the period that begins on the date of the event described in paragraph 1 and ends at 2 p.m. on nomination day.

2.1 If the by-election for an office is being held as a result of the death or ineligibility of a candidate or insufficient nominations in a regular election, a person may, despite section 29, only be nominated for the office if the person meets the requirements of clauses 29 (1) (a) and (b) both on nomination day of the regular election and on the day the person is nominated for the by-election.

3. Voting day shall be 45 days after nomination day.

4. The voters' list shall be prepared as follows:

i. the clerk shall notify the Chief Electoral Officer that a by-election is required,

ii. the clerk shall, at least 21 days before nomination day, obtain the preliminary list or the part of it that is required for the by-election,

iii. the clerk shall make corrections to the preliminary list as soon as possible after obtaining the list, and

iv. the corrected list constitutes the voters' list.

5. 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.

5.1 Within 30 days after voting day, the clerk shall,

i. prepare a final list of the changes to the voters' list approved under sections 24 and 25, and

ii. give a copy of the final list of changes to the Chief Electoral Officer.

6. Despite paragraph 7, a voting proxy appointed under section 44 may be any person entitled to be an elector if a regular election was held on the day of the by-election.

7. A person is not eligible to vote in a by-election for an office if the person could not vote for that office if a regular election was held on the day of the by-election.

1996, c. 32, Sched., s. 65 (4); 2002, c. 17, Sched. D, s. 24 (2-7); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 34 (6); 2006, c. 33, Sched. Z.3, s. 18 (5, 6); 2009, c. 33, Sched. 21, s. 8 (25-27); 2016, c. 15, s. 42 (1); 2020, c. 23, Sched. 4, s. 11 (1, 2).

Rules, question or by-law

(5) If the by-election relates to a question or by-law, the following rules apply:

1. The clerk shall fix the date of voting day, to be a day not less than 60 days and not more than 90 days after,

i. 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,

ii. 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,

iii. the clerk receives an order from the Minister indicating a by-election is required.

2. Despite rule 1, in the case of a question under section 53 or 54 of the *Liquor Licence Act*, as it read immediately before it was repealed, or under any successors to those provisions in a regulation made under the *Liquor Licence and Control Act, 2019*, the date of voting day is fixed by the council of the municipality with the approval of the board of the Alcohol and Gaming Commission of Ontario under section 55 of the *Liquor Licence Act*, as it read immediately before it was repealed, or under any successor to that provision in a regulation made under the *Liquor Licence and Control Act, 2019*.

2.1 Despite rules 1 and 2, in the case of a question authorized by a by-law under clause 8 (1) (b) or (c), the date of voting day shall be a day at least 180 days after the day the by-law is passed.

3. The voters' list shall be prepared as follows:

i. the clerk shall notify the Chief Electoral Officer that a by-election is required and,

A. for a by-law under clause 8 (1) (a) or a question under subsection 8 (2) or (3), the clerk shall, within 10 days after the clerk notifies the Chief

Electoral Officer that a by-election is required, obtain the preliminary list that is required for the by-election, or

B. for a question under clause 8 (1) (b) or (c), the clerk shall, at least 60 days before voting day, obtain the preliminary list that is required for the by-election,

ii. the clerk shall make corrections to the preliminary list under section 22 as soon as possible after obtaining the list, and

iii. the corrected list constitutes the voters' list.

3.1 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 3 ii and ends at the close of voting on voting day.

3.2 Within 30 days after voting day, the clerk shall,

i. prepare a final list of the changes to the voters' list approved under sections 24 and 25, and

ii. give a copy of the final list of changes to the Chief Electoral Officer.

4. The rule set out in paragraph 6 of subsection (4) applies to voting proxies.

5. A person is not eligible to vote in a by-election relating to a question or by-law if the person could not vote with respect to that question or by-law if a regular election was held on the day of the by-election. 1996, c. 32, Sched., s. 65 (5); 2000, c. 5, s. 32 (1); 2002, c. 17, Sched. D, s. 24 (8, 9); 2016, c. 15, s. 42 (2-5); 2019, c. 15, Sched. 22, s. 100 (2); 2020, c. 23, Sched. 4, s. 11 (3, 4).

(6) Repealed: 2016, c. 15, s. 42 (6).

v **Section Amendments with date in force (d/m/y)**

66 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

67 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

68 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

69 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

70 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

70.1 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

71 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

72-74 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

75 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

76 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

77 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

78 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

79 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

79.1 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

80 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

81 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

81.1 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

82 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

82.1 Repealed: 2016, c. 15, s. 43.

v **Section Amendments with date in force (d/m/y)**

Controverted Elections

Application

83 (1) A person who is entitled to vote in an election may make an application to the Superior Court of Justice requesting that it determine,

(a) whether the election is valid;

(b) whether a person's election to an office in the election is valid;

(c) if a person's election to an office is not valid, whether another person was validly elected or is entitled to the office;

(d) if an election is not valid or a person's election to an office is not valid, whether a by-election should be held. 1996, c. 32, Sched., s. 83 (1); 2002, c. 17, Sched. D, s. 34 (1).

Time

(2) The application shall be commenced within 90 days after voting day. 1996, c. 32, Sched., s. 83 (2).

Summary procedure

(3) The application shall be dealt with in a summary manner, without application records or factums. 1996, c. 32, Sched., s. 83 (3).

Service

(3.1) The applicant shall serve a copy of the application on the clerk or secretary of the municipality or local board to which the application relates within 5 days after the day the application was made under this section. 2002, c. 17, Sched. D, s. 34 (2).

No other avenue

(4) A proceeding to determine a matter described in clause (1) (a), (b), (c) or (d) may be commenced only under subsection (1). 1996, c. 32, Sched., s. 83 (4).

Compensation

(5) If the court orders that a by-election be held, it may make such order as it considers just against a person whose act or omission unlawfully affected the result of the election, for the compensation of candidates at that election. 1996, c. 32, Sched., s. 83 (5).

Effect of procedural irregularities

(6) The court shall not determine an election to be invalid if,

(a) an irregularity described in subsection (7) occurred at the election but did not affect the result of the election; and

(b) the election was conducted in accordance with the principles of this Act. 1996, c. 32, Sched., s. 83 (6).

Same

(7) Clause (6) (a) applies to the following irregularities:

1. An irregularity on the part of the clerk or in any of the procedures before voting day.

2. Failure to have a voting place open at the appointed location and time.

3. Non-compliance with a provision of this Act or of a regulation, by-law, resolution or procedure made, passed or established under this Act, dealing with voting, counting of votes or time requirements.

4. A mistake in the use of forms, whether prescribed or not.

5. Repealed: 2020, c. 26, Sched. 2, s. 9.

1996, c. 32, Sched., s. 83 (7); 2016, c. 15, s. 44; 2020, c. 26, Sched. 2, s. 9.

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v **Section Amendments with date in force (d/m/y)**

Disclaimer before application

84 (1) A person who has been elected to an office may, within 90 days after voting day and before an application questioning his or her election is made under clause 83 (1) (b), disclaim all right to the office. 1996, c. 32, Sched., s. 84 (1).

Manner of making disclaimer

(2) The disclaimer shall be made in writing and delivered to the clerk who conducted the election. 1996, c. 32, Sched., s. 84 (2).

Disclaimer after application

(3) A person whose election is questioned in an application under clause 83 (1) (b) may, within seven days after being served with the application, disclaim all right to the office. 1996, c. 32, Sched., s. 84 (3).

Manner of making disclaimer

(4) The disclaimer shall be made in writing and delivered to,

(a) the court;

(b) the applicant or his or her lawyer; and

(c) the clerk who conducted the election. 1996, c. 32, Sched., s. 84 (4).

Duty of clerk

(5) When the clerk receives a disclaimer under subsection (1) or (3), he or she shall immediately communicate it to the council or to the secretary of the local board, as the case may be. 1996, c. 32, Sched., s. 84 (5).

Resignation

(6) The disclaimer operates as a resignation and takes effect when the clerk receives it. 1996, c. 32, Sched., s. 84 (6).

Effect on liability for costs

(7) The disclaimer relieves the person making it from any liability for costs in an application under subsection 83 (1) that are incurred after the court receives the disclaimer. 1996, c. 32, Sched., s. 84 (7).

Substitution of applicant

85 (1) If the applicant is not qualified under subsection 83 (1) the court may, on any person's motion, order that another person who is so qualified be substituted as applicant, on any conditions the court considers proper. 1996, c. 32, Sched., s. 85 (1).

Time

(2) The motion may be made at any time before or during the hearing of the application, with leave of the court. 1996, c. 32, Sched., s. 85 (2).

Applicant's death

(3) If the applicant dies before the court hears the application, it shall be deemed to have been dismissed, unless the court makes an order under subsection (1), which applies with necessary modifications; the court may award costs of the application despite the deemed dismissal. 1996, c. 32, Sched., s. 85 (3).

Appeal

86 (1) An order made under subsection 83 (1) may be appealed to the Divisional Court. 1996, c. 32, Sched., s. 86 (1).

Power of Divisional Court

(2) The Divisional Court may make an order under subsection 83 (1) or, if it is necessary to take evidence, may order a new hearing. 1996, c. 32, Sched., s. 86 (2).

New hearing

(3) If the Divisional Court orders a new hearing,

(a) it may order that the hearing be held by the judge who held the original hearing, or by another judge of the General Division; and

(b) unless the Divisional Court orders otherwise, the order made on the new hearing may be appealed under subsection (1) as if it had been the first hearing. 1996, c. 32, Sched., s. 86 (3).

Matters pending appeal

87 (1) When an order is made under subsection 83 (1) determining a person's election to an office to be invalid, the person is entitled to sit and vote on the council or local board until,

(a) the appeal period expires without an appeal being filed; or

(b) if an appeal is filed, it is finally disposed of. 1996, c. 32, Sched., s. 87 (1).

Effect of subsequent disqualification

(2) Decisions of a council or local board in which a person described in subsection (1) has participated are unaffected even if it is determined that another person was validly elected or entitled to the office. 1996, c. 32, Sched., s. 87 (2).

Time for by-election

(3) A by-election that would be required as a result of the order shall not be held until,

(a) the appeal period expires without an appeal being filed; or

(b) if an appeal is filed, it is finally disposed of. 1996, c. 32, Sched., s. 87 (3).

120-day retention period

88 (1) The clerk shall retain the ballots and all other documents and materials related to an election for 120 days after declaring the results of the election under section 55. 1996, c. 32, Sched., s. 88 (1); 2009, c. 33, Sched. 21, s. 8 (49).

Destruction of records

(2) When the 120-day period has elapsed, the clerk,

(a) shall destroy the ballots, in the presence of two witnesses; and

(b) may destroy any other documents and materials related to the election. 1996, c. 32, Sched., s. 88 (2); 2009, c. 33, Sched. 21, s. 8 (50).

Exception, recount

(3) However, the clerk shall not destroy the ballots, documents or materials if,

(a) a court orders that they be retained; or

(b) a recount has been commenced and not finally disposed of. 1996, c. 32, Sched., s. 88 (3).

Exception, election campaign finance documents

(4) Subsection (2) does not apply to documents filed under sections 88.25, 88.29 and 88.32, which the clerk shall retain until the members of the council or local board elected at the next regular election have taken office. 1996, c. 32, Sched., s. 88 (4); 2009, c. 33, Sched. 21, s. 8 (51); 2016, c. 15, s. 45 (1).

Public records

(5) Despite anything in the *Municipal Freedom of Information and Protection of Privacy Act*, documents and materials filed with or prepared by the clerk or any other election official under this Act are public records and, until their destruction, may be inspected by any person at the clerk's office at a time when the office is open. 1996, c. 32, Sched., s. 88 (5).

Exception re filings, etc.

(6) Subsection (5) does not apply to documents and materials filed with or prepared by the clerk or any other election official under this Act once the 120-day period has

elapsed. 2016, c. 15, s. 45 (2).

Exception re ballot box, etc.

(6.1) Subsection (5) does not entitle a person to inspect the contents of a ballot box or any applications made under section 24 or 25 unless authorized to do so by a court order. 2016, c. 15, s. 45 (2).

Redacted information

(6.2) Subsection (5) does not apply to information about a person that has been redacted under section 4.7 of the *Election Act*. 2020, c. 23, Sched. 4, s. 12 (1).

Extracts and copies

(7) A person inspecting documents under this section is entitled to make extracts from them and, on payment of the fee established by the clerk, to make copies of them. 1996, c. 32, Sched., s. 88 (7).

Restriction

(7.1) Subsection (7) does not entitle a person to make extracts from, or copies of, the voters' list, unless authorized to do so by a court order. 2020, c. 23, Sched. 4, s. 12 (1).

Fees for copies

(8) The fee established for copies shall not exceed the lowest rate the clerk charges for copies of other documents. 1996, c. 32, Sched., s. 88 (8).

Grounds for order

(9) The court presiding over a proceeding in respect of any matter relating to a provision of this Act may make an order under clause (3) (a) or subsection (6.1) or (7.1) if satisfied that the documents are or may be required for the proceeding. 2009, c. 33, Sched. 21, s. 8 (52); 2020, c. 23, Sched. 4, s. 12 (2).

Information to be made available

(9.1) The clerk shall make the documents filed under sections 88.25, 88.29 and 88.32 available at no charge for viewing by the public on a website or in another electronic format as soon as possible after the documents are filed. 2016, c. 15, s. 45 (3).

Restrictions

(10) No person shall use information obtained from public records described in subsection (5), except for election purposes. 1996, c. 32, Sched., s. 88 (10).

Voters' list

(11) A voters' list prepared under this Act shall not be,

(a) posted in a public place; or

(b) made available to the public in another manner that is prescribed. 1996, c. 32, Sched., s. 88 (11).

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v **Section Amendments with date in force (d/m/y)**

THE ELECTION CAMPAIGN

Access to residential premises

88.1 No person who is in control of an apartment building, condominium building, non-profit housing cooperative or gated community may prevent a candidate or his or her representative from campaigning between 9 a.m. and 9 p.m. at the doors to the apartments, units or houses, as the case may be. 2016, c. 15, s. 46.

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v **Section Amendments with date in force (d/m/y)**

Display of signs at residential premises

88.2 (1) No landlord or person acting on a landlord's behalf may prohibit a tenant from displaying signs in relation to an election on the premises to which the lease relates. 2016, c. 15, s. 46.

Same, condominium corporations

(2) No condominium corporation or any of its agents may prohibit the owner or tenant of a condominium unit from displaying signs in relation to an election on the premises of his or her unit. 2016, c. 15, s. 46.

Exception

(3) Despite subsections (1) and (2), a landlord, person, condominium corporation or agent may set reasonable conditions relating to the size or type of signs in relation to an election that may be displayed on the premises and may prohibit the display of signs in relation to an election in common areas of the building in which the premises are found. 2016, c. 15, s. 46.

Same

(4) Despite subsection (3), no landlord, person, condominium corporation or agent may prohibit the display of signs in relation to an election in common areas of the building if space in the building is being used as a voting place. 2016, c. 15, s. 46.

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v **Section Amendments with date in force (d/m/y)**

Candidates' election campaign advertisements

88.3 (1) In this section,

"election campaign advertisement" means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting or supporting the election of a candidate. 2016, c. 15, s. 47.

Mandatory information in advertisement

(2) An election campaign advertisement purchased by or under the direction of a candidate shall identify the candidate. 2016, c. 15, s. 47.

Mandatory information for broadcaster, etc.

(3) A candidate shall not cause an election campaign advertisement to appear unless he or she provides the following information to the broadcaster or publisher in writing:

1. The name of the candidate.

2. The name, business address and telephone number of the individual who deals with the broadcaster or publisher under the direction of the candidate. 2016, c. 15, s. 47.

Prohibition, broadcaster or publisher

(4) No broadcaster or publisher shall cause an election campaign advertisement to appear if the information set out in paragraphs 1 and 2 of subsection (3) has not been provided. 2016, c. 15, s. 47.

Records

(5) The broadcaster or publisher of an election campaign advertisement shall maintain records containing the following information for a period of four years after the date the advertisement appears and shall permit the public to inspect the records during normal business hours:

1. The information provided under subsection (3).
2. A copy of the advertisement, or the means of reproducing it for inspection.
3. A statement of the charge made for its appearance. 2016, c. 15, s. 47.

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v **Section Amendments with date in force (d/m/y)**

Third party advertisements

88.4 (1) No individual, corporation or trade union shall incur expenses for a third party advertisement that appears during the restricted period for third party advertisements unless the individual, corporation or trade union is a registered third party under section 88.6 when the expenses are incurred and when the advertisement appears. 2016, c. 15, s. 48.

Restricted period for third party advertisements

(2) The restricted period for third party advertisements in relation to an election in a municipality begins on the earliest day that an individual, corporation or trade union is permitted to file a notice of registration as a registered third party in relation to the election and ends at the close of voting on voting day. 2016, c. 15, s. 48.

Limit on expenses

(3) The expenses incurred in relation to third party advertisements cannot exceed the amount calculated under section 88.21 (registered third parties' expenses) for the registered third party. 2016, c. 15, s. 48.

v **Section Amendments with date in force (d/m/y)**

Mandatory information in third party advertisements

88.5 (1) No registered third party shall cause a third party advertisement to appear during the restricted period unless the advertisement contains the following information:

1. The name of the registered third party.
2. The municipality where the registered third party is registered.
3. A telephone number, mailing address or email address at which the registered third party may be contacted regarding the advertisement. 2016, c. 15, s. 48.

Mandatory information for broadcaster, etc.

(2) A registered third party shall not cause a third party advertisement to appear during the restricted period unless he, she or it provides the following information to the broadcaster or publisher in writing:

1. The name of the registered third party.
2. The name, business address and telephone number of the individual who deals with the broadcaster or publisher under the direction of the registered third party.
3. The municipality where the registered third party is registered. 2016, c. 15, s. 48.

Prohibition, broadcaster or publisher

(3) No broadcaster or publisher shall cause a third party advertisement to appear during the restricted period if the information set out in paragraphs 1 to 3 of subsection (2) has not been provided. 2016, c. 15, s. 48.

Records

(4) The broadcaster or publisher of a third party advertisement shall maintain records containing the following information for a period of four years after the date the advertisement appears and shall permit the public to inspect the records during normal business hours:

1. The information provided under subsection (2).
2. A copy of the advertisement, or the means of reproducing it for inspection.

3. A statement of the charge made for its appearance. 2016, c. 15, s. 48.

v **Section Amendments with date in force (d/m/y)**

Registration of third party advertisers

Notice of registration

88.6 (1) An individual, corporation or trade union may, in accordance with subsection (1.1), file with the clerk of the municipality responsible for conducting an election a notice of registration to be a registered third party for the election, and the notice must be filed in the prescribed form and must include a declaration of qualification signed by the individual or by a representative of the corporation or trade union, as the case may be. 2016, c. 15, s. 49; 2021, c. 5, Sched. 4, s. 5 (1).

Same

(1.1) A notice of registration may be filed,

(a) in person or by an agent; or

(b) if the clerk has provided for electronic filing under subsection (12.1), electronically. 2021, c. 5, Sched. 4, s. 5 (2).

Same

(2) A notice of registration may only be filed with the clerk of a local municipality. 2016, c. 15, s. 49.

Date of registration

(3) On the date on which the clerk certifies the notice of registration, the individual, corporation or trade union is a registered third party for the election. 2016, c. 15, s. 49.

Eligibility for registration

(4) Only the following persons and entities are eligible to file a notice of registration:

1. An individual who is normally resident in Ontario.
2. A corporation that carries on business in Ontario.

3. A trade union that holds bargaining rights for employees in Ontario. 2016, c. 15, s. 49.

Restriction

(5) The following persons and entities are not eligible to file a notice of registration:

1. A candidate whose nomination has been filed under section 33.

2. A federal political party registered under the *Canada Elections Act* (Canada) or any federal constituency association or registered candidate at a federal election endorsed by that party.

3. A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act*.

4. The Crown in right of Canada or Ontario, a municipality or local board. 2016, c. 15, s. 49.

Same

(6) For greater certainty, third party advertisements shall not be under the direction of a candidate whose nomination has been filed under section 33. 2016, c. 15, s. 49.

Time for filing

(7) In the case of a regular election, the notice of registration cannot be filed earlier than the first day for filing nominations under subsection 33 (4) and cannot be filed later than the Friday before voting day, at a time when the clerk's office is open. 2016, c. 15, s. 49.

Same, by-election for an office

(8) In the case of a by-election for an office, the notice of registration cannot be filed earlier than the first day for filing nominations under subsection 65 (4) and cannot be filed later than the last day on which the clerk's office is open before voting day, at a time when the clerk's office is open. 2016, c. 15, s. 49.

Same, by-election re proposed by-law

(9) In the case of a by-election that relates to a proposed by-law under clause 8 (1) (a), the notice of registration cannot be filed before the council of a municipality passes a by-law indicating that a by-election is required and cannot be filed later than the last day on

which the clerk's office is open before voting day, at a time when the clerk's office is open. 2016, c. 15, s. 49.

Same, by-election re question

(10) In the case of a by-election that relates to a question under clause 8 (1) (b) or (c), the notice of registration cannot be filed earlier than 60 days before voting day and cannot be filed later than the last day on which the clerk's office is open before voting day, at a time when the clerk's office is open. 2016, c. 15, s. 49.

Same

(11) In the case of a by-election that relates to a question under subsection 8 (2), the notice of registration cannot be filed before the clerk receives from a local board whose election he or she is responsible for conducting a copy of a resolution indicating that a by-election is required, and cannot be filed later than the last day on which the clerk's office is open before voting day, at a time when the clerk's office is open. 2016, c. 15, s. 49.

Same

(12) In the case of a by-election that relates to a question under subsection 8 (3), the notice of registration cannot be filed before the clerk receives an order from the Minister indicating that a by-election is required, and cannot be filed later than the last day on which the clerk's office is open before voting day, at a time when the clerk's office is open. 2016, c. 15, s. 49.

Electronic filing

(12.1) The clerk may provide for electronic filing under this section and may establish conditions and limits with respect to electronic filing. 2021, c. 5, Sched. 4, s. 5 (2).

Certification

(13) The clerk shall examine each notice of registration that has been filed and do one of the following as soon as practicable upon filing:

1. If satisfied that the individual, corporation or trade union is qualified to be registered and that the notice of registration complies with this Act, certify the notice of registration by signing it.

2. If not satisfied that the individual, corporation or trade union is qualified to be registered or that the notice of registration complies with this Act, reject the notice of registration. 2016, c. 15, s. 49; 2021, c. 5, Sched. 4, s. 5 (3).

Decision final

(14) The clerk's decision to certify or reject a notice of registration is final. 2016, c. 15, s. 49.

Withdrawal of registration

(15) A registered third party may withdraw their registration by filing a written withdrawal in the clerk's office during the time for filing a notice of registration set out in subsection (7). 2021, c. 5, Sched. 4, s. 5 (4).

Same

(16) If a registered third party files a nomination under section 33, the party's registration is deemed to have been withdrawn at the time the nomination is filed. 2021, c. 5, Sched. 4, s. 5 (4).

v **Section Amendments with date in force (d/m/y)**

Municipal authority to remove advertisements

88.7 If a municipality is satisfied that there has been a contravention of section 88.3, 88.4 or 88.5, the municipality may require a person who the municipality reasonably believes contravened the section or caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to remove the advertisement or discontinue the advertising. 2016, c. 15, s. 50.

v **Section Amendments with date in force (d/m/y)**

CAMPAIGN CONTRIBUTIONS

Contributions to candidates

88.8 (1) A contribution shall not be made to or accepted by a person or an individual acting under the person's direction unless the person is a candidate. 2016, c. 15, s. 51.

Only during election campaign

(2) A contribution shall not be made to or accepted by a candidate or an individual acting under the candidate's direction outside the candidate's election campaign period described in section 88.24. 2016, c. 15, s. 51.

Who may contribute

(3) Only the following persons may make contributions:

1. An individual who is normally resident in Ontario.
2. Subject to subsection (5), the candidate and his or her spouse. 2016, c. 15, s. 51.

Who cannot contribute

(4) For greater certainty, and without limiting the generality of subsection (3), the following persons and entities shall not make a contribution:

1. A federal political party registered under the *Canada Elections Act* (Canada) or any federal constituency association or registered candidate at a federal election endorsed by that party.
2. A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act*.
3. A corporation that carries on business in Ontario.
4. A trade union that holds bargaining rights for employees in Ontario.
5. The Crown in right of Canada or Ontario, a municipality or a local board. 2016, c. 15, s. 51.

Non-resident candidate, spouse

(5) If not normally resident in Ontario, a candidate and his or her spouse may make contributions only to the candidate's election campaign. 2016, c. 15, s. 51.

Who may accept contribution

(6) A contribution may be accepted only by a candidate or an individual acting under the candidate's direction. 2016, c. 15, s. 51.

Contributors

(7) A contribution may be accepted only from a person or entity that is entitled to make a contribution. 2016, c. 15, s. 51.

Contributions exceeding $25

(8) A contribution of money that exceeds $25 shall not be contributed in the form of cash and shall be contributed in a manner that associates the contributor's name and account with the payment or by a money order signed by the contributor. 2016, c. 15, s. 51.

Exception re making information public

(9) For greater certainty, if a municipality or local board makes information available to the public on a website or in another electronic format, the provision of the information does not constitute a contribution to a candidate. 2016, c. 15, s. 51.

Same

(10) Without limiting the generality of subsection (9), the information referred to in that subsection includes the following:

1. The phone number and email address provided by the candidate in the nomination filed under section 33.
2. A hyperlink to the candidate's website. 2016, c. 15, s. 51.

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v **Section Amendments with date in force (d/m/y)**

Maximum contributions to candidates

88.9 (1) A contributor shall not make contributions exceeding a total of $1,200 to any one candidate in an election. 2016, c. 15, s. 51; 2017, c. 10, Sched. 4, s. 8 (8).

More than one office

(2) If a person is a candidate for more than one office, a contributor's total contributions to him or her in respect of all the offices shall not exceed "$1,200. 2016, c. 15, s. 51; 2017, c. 10, Sched. 4, s. 8 (9).

Exception, mayor of City of Toronto

(3) Despite subsections (1) and (2), for the purposes of those subsections the maximum total contribution that a contributor may make to a candidate for the office of mayor of the City of Toronto is $2,500. 2016, c. 15, s. 51.

Multiple candidates

(4) 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. 2016, c. 15, s. 51.

Exception, candidates and spouses

(5) This section does not apply to contributions made to a candidate's own election campaign by the candidate or his or her spouse. 2016, c. 15, s. 51.

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v **Section Amendments with date in force (d/m/y)**

Maximum contributions to a candidate's own election campaign

88.9.1 (1) A candidate for an office on a council and his or her spouse shall not make contributions to the candidate's own election campaign that, combined, exceed an amount equal to the lesser of,

(a) the amount calculated by adding,

(i) in the case of a candidate for the office of head of council of a municipality, $7,500 plus 20 cents for each elector entitled to vote for the office, or

(ii) in the case of a candidate for an office on a council of a municipality other than the office of head of council, $5,000 plus 20 cents for each elector entitled to vote for the office; and

(b) $25,000. 2017, c. 10, Sched. 4, s. 8 (10).

Number of electors, regular election

(2) For the purposes of subsection (1), for a regular election the number of electors is the greater of the following:

1. The number determined from the voters' list from the previous regular election, as it existed on September 20 in the year of the previous election, adjusted for changes made under sections 24 and 25 that were approved as of that day and any

changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day.

2. The number determined from the voters' list for the current election, as it exists on September 20 in the year of the current election, adjusted for changes made under sections 24 and 25 that are approved as of that day and any changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day. 2020, c. 23, Sched. 4, s. 13 (1).

Same, by-election

(3) For the purposes of subsection (1), for a by-election the number of electors is the greater of the following:

1. The number determined from the voters' list from the previous regular election, as it existed on September 20 in the year of the previous election, adjusted for changes made under sections 24 and 25 that were approved as of that day and any changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day.

2. The number determined from the voters' list for the by-election, as it exists after the clerk has made corrections under subparagraph 4 iii of subsection 65 (4).2017, c. 10, Sched. 4, s. 8 (10); 2020, c. 23, Sched. 4, s. 13 (2).

Certificate of maximum amounts

(4) The clerk shall calculate the maximum amounts permitted by subsection (1) for each office for which nominations were filed with him or her and, subject to subsection (5), give a certificate of the applicable maximum amounts to each candidate,

(a) in the case of a regular election, on or before September 30; and

(b) in the case of a by-election, within 10 days after the clerk makes the corrections under subparagraph 4 iii of subsection 65 (4). 2017, c. 10, Sched. 4, s. 8 (10); 2020, c. 23, Sched. 4, s. 13 (3).

Exception

(5) If the applicable maximum amount for a candidate under subsection (1) is $25,000, the clerk is not required to give a certificate of the applicable maximum amount to that candidate under subsection (4). 2017, c. 10, Sched. 4, s. 8 (10).

Calculation final

(6) The clerk's calculation is final. 2017, c. 10, Sched. 4, s. 8 (10).

Transition

(7) For the 2026 regular election, the maximum amount determined under subsection (1) shall be determined as if paragraph 1 of subsection (2) read as follows:

1. The number determined from the voters' list from the previous regular election, as it existed on September 15 in the year of the previous election, adjusted for applications under sections 24 and 25 that were approved as of that day. 2020, c. 23, Sched. 4, s. 13 (4).

Non-application of s. 88.34

(8) Section 88.34 does not apply to contributions made by a candidate for an office on a council or his or her spouse to the candidate's own election campaign. 2017, c. 10, Sched. 4, s. 8 (11).

v **Section Amendments with date in force (d/m/y)**

Fund-raising for candidates

88.10 (1) A fund-raising function shall not be held for a person who is not a candidate. 2016, c. 15, s. 51.

Same

(2) A fund-raising function for a candidate shall not be held outside the candidate's election campaign period described in section 88.24. 2016, c. 15, s. 51.

v **Section Amendments with date in force (d/m/y)**

Rebate of contributions to candidates

88.11 (1) A municipality may, by by-law, provide for the payment of rebates to individuals who made contributions to candidates for office on the municipal council. 2016, c. 15, s. 51.

Same, resolution

(2) A local board may, by resolution, provide for the payment of rebates to individuals who made contributions to candidates for office on the local board. 2016, c. 15, s. 51.

Same

(3) The by-law or resolution shall establish the conditions under which an individual is entitled to a rebate. 2016, c. 15, s. 51.

Same

(4) The by-law or resolution may provide for the payment of different amounts to different individuals on any basis. 2016, c. 15, s. 51.

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v **Section Amendments with date in force (d/m/y)**

Contributions to registered third parties

88.12 (1) A contribution shall not be made to or accepted by an individual, corporation or trade union in relation to third party advertisements that appear during an election in a municipality, or made to or accepted by an individual acting under his, her or its direction, unless the individual, corporation or trade union is a registered third party in relation to the election in the municipality. 2016, c. 15, s. 52.

Only during campaign period

(2) A contribution shall not be made to a registered third party, or to an individual acting under his, her or its direction, if the contribution is made outside the campaign period described in section 88.28 for the registered third party in relation to an election in the municipality. 2016, c. 15, s. 52.

Who may contribute

(3) Only the following may make contributions:

1. An individual who is normally resident in Ontario.
2. A corporation that carries on business in Ontario.
3. A trade union that holds bargaining rights for employees in Ontario.

4. Subject to subsection (5), the registered third party and, in the case of an individual, his or her spouse. 2016, c. 15, s. 52.

Who cannot contribute

(4) For greater certainty, and without limiting the generality of subsection (3), the following shall not make a contribution:

1. A federal political party registered under the *Canada Elections Act* (Canada) or any federal constituency association or registered candidate at a federal election endorsed by that party.

2. A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act*.

3. The Crown in right of Canada or Ontario, a municipality or local board. 2016, c. 15, s. 52.

Non-resident spouse

(5) If the spouse of a registered third party is not normally resident in Ontario, the spouse may make contributions only to the registered third party. 2016, c. 15, s. 52.

Who may accept contribution

(6) A contribution may be accepted only by a registered third party or an individual acting under the direction of the registered third party. 2016, c. 15, s. 52.

Contributors

(7) A contribution may be accepted only from a person or entity that is entitled to make a contribution. 2016, c. 15, s. 52.

Contributions exceeding $25

(8) A contribution of money that exceeds $25 shall not be contributed in the form of cash and shall be contributed in a manner that associates the contributor's name and account with the payment or by a money order signed by the contributor. 2016, c. 15, s. 52.

Exception re making information public

(9) For greater certainty, if a municipality or local board makes information available to the public on a website or in another electronic format, the provision of information does

not constitute a contribution to a registered third party. 2016, c. 15, s. 52.

Same

(10) Without limiting the generality of subsection (9), the information referred to in that subsection includes the following:

1. The phone number and email address provided by the registered third party in the notice of registration filed under section 88.6.
2. A hyperlink to the website of the registered third party. 2016, c. 15, s. 52.

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v **Section Amendments with date in force (d/m/y)**

Maximum contributions to registered third parties

88.13 (1) A contributor shall not make contributions exceeding a total of $1,200 to a registered third party in relation to third party advertisements that appear during an election in a municipality. 2016, c. 15, s. 52; 2017, c. 10, Sched. 4, s. 8 (12).

More than one registered third party

(2) A contributor shall not make contributions exceeding a total of $5,000 to two or more registered third parties registered in the same municipality in relation to third party advertisements. 2016, c. 15, s. 52.

Exceptions

(3) Subsections (1) and (2) do not apply to contributions to a registered third party that are made by the registered third party itself and, if the registered third party is an individual, by his or her spouse. 2016, c. 15, s. 52.

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v **Section Amendments with date in force (d/m/y)**

Fund-raising for registered third parties

88.14 (1) A fund-raising function relating to third party advertisements to appear during an election in a municipality shall not be held for an individual, corporation or trade union that is not a registered third party in the municipality. 2016, c. 15, s. 52.

Same

(2) A fund-raising function relating to third party advertisements shall not be held for a registered third party outside the campaign period described in section 88.28 for the registered third party in relation to an election in the municipality. 2016, c. 15, s. 52.

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v **Section Amendments with date in force (d/m/y)**

What constitutes a contribution

For an election campaign

88.15 (1) For the purposes of this Act, money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by another person who is acting under the person's direction, are contributions. 2016, c. 15, s. 53 (1).

For third party advertisements

(2) For the purposes of this Act, money, goods and services given to and accepted by an individual, corporation or trade union in relation to third party advertisements, or given to and accepted by another person who is acting under the direction of the individual, corporation or trade union, are contributions. 2016, c. 15, s. 53 (2).

Contributions

(3) Without restricting the generality of subsections (1) and (2), the following amounts are contributions:

1. An amount charged for admission to a fund-raising function.

2. If goods and services are sold for more than their market value at a fund-raising function, the difference between the amount paid and the market value. However, if the amount received for the goods or services is $25 or less, the amount is not a contribution.

3. If goods and services used in the person's election campaign or in relation to third party advertisements are purchased for less than their market value, the difference between the market value and the amount paid.

4. Any unpaid but guaranteed balance in respect of a loan under section 88.17. 2016, c. 15, s. 53 (3).

Not contributions

(4) Without restricting the generality of subsections (1) and (2), the following amounts are not contributions:

1. The value of services provided by voluntary unpaid labour.

2. The value of services provided voluntarily, under the direction of the person or the individual, corporation or trade union, by an employee whose compensation from all sources for providing the services does not exceed the compensation the employee would normally receive for the period the services are provided.

3. An amount of $25 or less that is donated at a fund-raising function.

4. The amount received for goods and services sold at a fund-raising function, if the amount is $25 or less.

5. The amount of a loan under section 88.17.

6. For a person referred to in subsection (1), the value of political advertising provided without charge on a broadcasting undertaking as defined in section 2 of the *Broadcasting Act* (Canada), if,

   i. it is provided in accordance with that Act and the regulations and guidelines made under it, and

   ii. it is provided equally to all candidates for office on the particular council or local board. 2016, c. 15, s. 53 (3).

Value of goods and services

(5) The value of goods and services provided as a contribution is,

(a) if the contributor is in the business of supplying these goods and services, the lowest amount the contributor charges the general public in the same market area for similar goods and services provided at or about the same time;

(b) if the contributor is not in the business of supplying these goods and services, the lowest amount a business providing similar goods or services charges the general public for them in the same market area at or about the same time. 2016, c. 15, s. 53 (3).

No penalty

(6) No employer shall impose any penalty on an employee who refuses to provide services voluntarily as described in paragraph 2 of subsection (4). 2016, c. 15, s. 53 (3).

v **Section Amendments with date in force (d/m/y)**

Restriction: use of own money

88.16 (1) A contributor shall not make a contribution of money that does not belong to the contributor. 2016, c. 15, s. 54.

Exception, will

(2) Subsection (1) does not apply to the personal representative of a deceased person whose will directs that a contribution be made to a named candidate or a registered third party, as the case may be, out of the funds of the estate. 2016, c. 15, s. 54.

v **Section Amendments with date in force (d/m/y)**

Campaign account loans

88.17 (1) A candidate and his or her spouse may obtain a loan only from a bank or other recognized lending institution in Ontario, to be paid directly into the candidate's campaign account. 2016, c. 15, s. 55 (1).

Same, registered third party

(2) A registered third party and, in the case of an individual, his or her spouse, may obtain a loan in relation to third party advertisements only from a bank or other recognized lending institution in Ontario, to be paid directly into the campaign account. 2016, c. 15, s. 55 (2).

Who may guarantee

(3) Only the following persons, as applicable, may guarantee a loan:

1. The candidate and his or her spouse.
2. The registered third party and, in the case of an individual, his or her spouse. 2016, c. 15, s. 55 (3).

v **Section Amendments with date in force (d/m/y)**

Use of municipal, board resources

88.18 Before May 1 in the year of a regular election, municipalities and local boards shall establish rules and procedures with respect to the use of municipal or board resources, as the case may be, during the election campaign period. 2016, c. 15, s. 56.

v **Section Amendments with date in force (d/m/y)**

CAMPAIGN EXPENSES

What constitutes an expense

For an election campaign

88.19 (1) For the purposes of this Act, costs incurred for goods or services by or under the direction of a person wholly or partly for use in his or her election campaign are expenses. 2016, c. 15, s. 57 (1).

For third party advertisements

(2) For the purposes of this Act, costs incurred by or under the direction of an individual, corporation or trade union for goods or services for use wholly or partly in relation to third party advertisements that appear during an election in a municipality are expenses. 2016, c. 15, s. 57 (2).

Expenses

(3) Without restricting the generality of subsections (1) and (2), the following amounts are expenses:

1. The replacement value of goods retained by the person, individual, corporation or trade union from any previous election in the municipality and used in the current election.
2. The value of contributions of goods and services.
3. Audit and accounting fees.
4. Interest on loans under section 88.17.

5. The cost of holding fund-raising functions.

6. The cost of holding parties and making other expressions of appreciation after the close of voting.

7. For a candidate, expenses relating to a recount or a proceeding under section 83 (controverted elections).

8. Expenses relating to a compliance audit.

9. Expenses that are incurred by a candidate with a disability or a registered third party who is an individual with a disability, are directly related to the disability, and would not have been incurred but for the election to which the expenses relate.

10. The cost of election campaign advertisements (within the meaning of section 88.3) or third party advertisements, as the case may be. 2016, c. 15, s. 57 (3).

Exception

(4) For greater certainty, the cost of holding fund-raising functions does not include costs related to,

(a) events or activities that are organized for such purposes as promoting public awareness of a candidate and at which the soliciting of contributions is incidental; or

(b) promotional materials in which the soliciting of contributions is incidental. 2016, c. 15, s. 57 (3).

Transition, candidates' expenses

(5) In the following circumstances, a candidate's expenses for the 2018 regular election that are described in paragraphs 7 and 8 of subsection (3) may include his or her expenses as a candidate in the 2014 regular election for an office on the same council or local board:

1. The circumstances described in paragraph 4 of subsection 88.24 (1) (deficit).

2. The circumstances described in paragraph 5 of subsection 88.24 (1) (expenses relating to a recount, etc.). 2016, c. 15, s. 57 (3).

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v **Section Amendments with date in force (d/m/y)**

Candidates' expenses

88.20 (1) An expense shall not be incurred by or under the direction of a person unless he or she is a candidate. 2016, c. 15, s. 58.

Only during campaign period

(2) An expense shall not be incurred by or under the direction of a candidate outside his or her election campaign period. 2016, c. 15, s. 58.

Exception, auditor's report

(3) Despite subsection (2), a candidate whose election campaign period ends as described in paragraph 2, 3 or 4 of subsection 88.24 (1) may incur expenses related to the preparation of an auditor's report under section 88.25 after the campaign period has ended. 2016, c. 15, s. 58.

Same

(4) For greater certainty, the expenses described in subsection (3) constitute expenses for the purposes of paragraph 3 of subsection 88.19 (3). 2016, c. 15, s. 58.

Who may incur expense

(5) An expense may only be incurred by a candidate or an individual acting under the candidate's direction. 2016, c. 15, s. 58.

Maximum amount

(6) During the period that begins on the day a candidate is nominated under section 33 and ends on voting day, his or her expenses shall not exceed an amount calculated in accordance with the prescribed formula. 2016, c. 15, s. 58.

Prescribed formula

(7) The formula prescribed for the purpose of subsection (6) must be written so that the amount calculated under it varies based on the number of electors entitled to vote for the office for which the candidate is nominated. 2016, c. 15, s. 58.

Exception

(8) Subsection (6) does not apply in respect of expenses described in paragraphs 3 and 5 to 9 of subsection 88.19 (3). 2016, c. 15, s. 58.

Maximum amount for parties, etc., after voting day

(9) The expenses of a candidate that are described in paragraph 6 of subsection 88.19 (3) shall not exceed an amount calculated in accordance with the prescribed formula. 2016, c. 15, s. 58.

Same

(10) The formula that is prescribed for the purposes of subsection (9) must be written so that the amount calculated under it varies based on the maximum amount determined under subsection (6) for the office for which the candidate is nominated. 2016, c. 15, s. 58.

Number of electors, regular election

(11) For the purposes of subsection (7), for a regular election the number of electors is the greater of the following:

1. The number determined from the voters' list from the previous regular election, as it existed on September 20 in the year of the previous election, adjusted for changes made under sections 24 and 25 that were approved as of that day and any changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day.

2. The number determined from the voters' list for the current election, as it exists on September 20 in the year of the current election, adjusted for changes made under sections 24 and 25 that are approved as of that day and any changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day. 2020, c. 23, Sched. 4, s. 14 (1).

Same, by-election

(12) For the purposes of subsection (7), for a by-election the number of electors is the greater of the following:

1. The number determined from the voters' list from the previous regular election, as it existed on September 20 in the year of the previous election, adjusted for changes made under sections 24 and 25 that were approved as of that day and any changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day.

2. The number determined from the voters' list for the by-election, as it exists after the clerk has made corrections under subparagraph 4 iii of subsection 65 (4). 2016, c. 15, s. 58; 2020, c. 23, Sched. 4, s. 14 (2).

Certificate of maximum amounts

(13) The clerk shall calculate the maximum amounts permitted by subsections (6) and (9) for each office for which nominations were filed with him or her and give a certificate of the applicable maximum amounts to each candidate,

(a) in the case of a regular election, on or before September 30; and

(b) in the case of a by-election, within 10 days after the clerk makes the corrections under subparagraph 4 iii of subsection 65 (4). 2016, c. 15, s. 58; 2020, c. 23, Sched. 4, s. 14 (3).

Calculations final

(14) The clerk's calculations are final. 2016, c. 15, s. 58.

Transition

(15) For the 2026 regular election, the maximum amount determined under subsection (6) shall be determined as if paragraph 1 of subsection (11) read as follows:

1. The number determined from the voters' list from the previous regular election, as it existed on September 15 in the year of the previous election, adjusted for applications under sections 24 and 25 that were approved as of that day. 2020, c. 23, Sched. 4, s. 14 (4).

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v **Section Amendments with date in force (d/m/y)**

Registered third parties' expenses

88.21 (1) An expense shall not be incurred by or under the direction of an individual, corporation or trade union in relation to third party advertisements that appear during an election in a municipality unless he, she or it is a registered third party in the municipality. 2016, c. 15, s. 59.

Only during campaign period

(2) An expense shall not be incurred by or under the direction of a registered third party in relation to third party advertisements outside the campaign period for the registered third party in relation to the election in the municipality. 2016, c. 15, s. 59.

Exception, auditor's report

(3) Despite subsection (2), a registered third party whose campaign period in relation to an election in a municipality ends as described in paragraph 2 or 3 of section 88.28 may incur expenses related to the preparation of an auditor's report under section 88.29 after the campaign period has ended. 2016, c. 15, s. 59.

Same

(4) For greater certainty, the expenses described in subsection (3) constitute expenses for the purposes of paragraph 3 of subsection 88.19 (3). 2016, c. 15, s. 59.

Who may incur expense

(5) An expense may only be incurred by a registered third party or an individual acting under the direction of the registered third party. 2016, c. 15, s. 59.

Maximum amount

(6) During the restricted period for third party advertisements, the expenses of a registered third party in relation to third party advertisements that appear during an election in a municipality shall not exceed an amount calculated in accordance with the prescribed formula. 2016, c. 15, s. 59.

Prescribed formula

(7) The formula prescribed for the purpose of subsection (6) must be written so that the amount calculated under it varies based on the number of electors entitled to vote in a regular election or by-election, as the case may be, in the municipality. 2016, c. 15, s. 59.

Exception

(8) Subsection (6) does not apply in respect of expenses described in paragraphs 3 and 5 to 9 of subsection 88.19 (3). 2016, c. 15, s. 59.

Maximum amount for parties, etc., after voting day

(9) The expenses of a registered third party that are described in paragraph 6 of subsection 88.19 (3) shall not exceed an amount calculated in accordance with the prescribed formula. 2016, c. 15, s. 59.

Same

(10) The formula that is prescribed for the purposes of subsection (9) must be written so that the amount calculated under it varies based on the maximum amount determined under subsection (6). 2016, c. 15, s. 59.

Number of electors, regular election

(11) Subject to subsection (16), for the purpose of applying the prescribed formula for a regular election, the number of electors is the greater of the following:

1. The number determined from the voters' list from the previous regular election, as it existed on the day specified in subsection (13), adjusted for changes made under sections 24 and 25 that were approved as of that day and any changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day.

2. The number determined from the voters' list for the current election, as it exists on September 20 in the year of the current election, adjusted for changes made under sections 24 and 25 that are approved as of that day and any changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day. 2020, c. 23, Sched. 4, s. 15 (1).

Same, by-election

(12) Subject to subsection (16), for the purpose of applying the prescribed formula for a by-election, the number of electors is the greater of the following:

1. The number determined from the voters' list from the previous regular election, as it existed on the day specified in subsection (13), adjusted for changes made under sections 24 and 25 that were approved as of that day and any changes based on updated information from the permanent register of electors that the clerk may obtain on or before that day.

2. The number determined from the voters' list for the by-election, as it exists after the clerk has made corrections under subparagraph 4 iii of subsection 65 (4). 2016,

c. 15, s. 59; 2020, c. 23, Sched. 4, s. 15 (2).

Same, regular or by-election

(13) For the purposes of paragraph 1 of subsection (11) and paragraph 1 of subsection (12), the number shall be determined using the voters' list from the previous regular election as the list existed on,

(a) September 15 in the year of the previous regular election, if the formula is being applied for the purposes of the 2026 regular election; or

(b) September 20 in the year of the previous regular election, if the formula is being applied for the purposes of an election in any other year. 2020, c. 23, Sched. 4, s. 15 (3).

When calculation must be made

(14) The clerk shall calculate the maximum amounts under subsections (6) and (9),

(a) for a regular election, no later than September 30 in the year of the election; and

(b) for a by-election, within 10 days after the clerk makes the corrections under subparagraph 4 iii of subsection 65 (4) or subparagraph 3 ii of subsection 65 (5). 2016, c. 15, s. 59; 2020, c. 23, Sched. 4, s. 15 (4).

Certificate of maximum amounts

(15) Upon registering the registered third party, the clerk shall give the individual filing the registration a certificate setting out the applicable maximum amounts under subsections (6) and (9) that apply with respect to the registered third party in relation to third party advertisements. 2016, c. 15, s. 59.

Exception

(16) Upon registering a registered third party before having calculated the amount under subsection (6), the clerk shall,

(a) calculate an estimated amount using the number of electors described in paragraph 1 of subsection (11) and give the individual filing the registration a certificate setting out the estimated amount as of the day of the calculation; and

(b) once the calculation under subsection (6) is made, give the individual who filed the registration a certificate setting out the amount calculated under subsection (6).

2016, c. 15, s. 59.

Calculations final

(17) The clerk's calculations are final. 2016, c. 15, s. 59.

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v Section Amendments with date in force (d/m/y)

DUTIES OF CANDIDATES AND REGISTERED THIRD PARTIES

Duties of candidates

88.22 (1) A candidate shall ensure that,

(a) no contributions of money are accepted or expenses are incurred unless one or more campaign accounts are first opened at a financial institution exclusively for the purposes of the election campaign;

(b) all contributions of money are deposited into the campaign accounts;

(c) all funds in the campaign accounts are used exclusively for the purposes of the election campaign;

(d) all payments for expenses are made from the campaign accounts;

(e) contributions of goods or services are valued;

(f) receipts are issued for every contribution and obtained for every expense;

(g) records are kept of,

(i) the receipts issued for every contribution,

(ii) the value of every contribution,

(iii) whether a contribution is in the form of money, goods or services, and

(iv) the contributor's name and address;

(h) records are kept of every expense including the receipts obtained for each expense;

(i) records are kept of any claim for payment of an expense that the candidate disputes or refuses to pay;

(j) records are kept of the gross income from a fund-raising function and the gross amount of money received at a fund-raising function by donations of $25 or less or

by the sale of goods or services for $25 or less;

(k) records are kept of any loan and its terms under section 88.17;

(l) the records described in clauses (g), (h), (i), (j) and (k) are retained by the candidate for the term of office of the members of the council or local board and until their successors are elected and the newly elected council or local board is organized;

(m) financial filings are made in accordance with sections 88.25 and 88.32;

(n) proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions under the direction of the candidate;

(o) a contribution of money made or received in contravention of this Act or a by-law passed under this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention;

(p) a contribution not returned to the contributor under clause (o) is paid to the clerk with whom the candidate's nomination was filed;

(q) an anonymous contribution is paid to the clerk with whom the candidate's nomination was filed; and

(r) each contributor is informed that a contributor shall not make contributions exceeding,

(i) subject to subsection (2), a total of $1,200 to any one candidate in an election, and

(ii) a total of $5,000 to two or more candidates for offices on the same council or local board. 2016, c. 15, s. 60; 2017, c. 10, Sched. 4, s. 8 (13).

Candidate for mayor, City of Toronto

(2) A candidate for the office of mayor of the City of Toronto shall ensure that each of his or her contributors is informed that a contributor shall not make contributions exceeding a total of $2,500 to any one candidate for the office of mayor of the City of Toronto. 2016, c. 15, s. 60.

Exclusion of certain expenses

(3) Expenses described in paragraph 2 of subsection 88.19 (3) are not expenses for the purpose of clause (1) (a). 2016, c. 15, s. 60.

Contributions paid to clerk

(4) Contributions paid to the clerk under clause (1) (p) or (q) become the property of the local municipality. 2016, c. 15, s. 60.

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v **Section Amendments with date in force (d/m/y)**

Effect of default by candidate

88.23 (1) A candidate is subject to the penalties listed in subsection (2), in addition to any other penalty that may be imposed under this Act,

(a) if the candidate fails to file a document as required under section 88.25 or 88.32 by the relevant date;

(b) if a document filed under section 88.25 shows on its face a surplus, as described in section 88.31, and the candidate fails to pay the amount required by subsection 88.31 (4) to the clerk by the relevant date;

(c) if a document filed under section 88.25 shows on its face that the candidate has incurred expenses exceeding what is permitted under section 88.20; or

(d) if a document filed under section 88.32 shows on its face a surplus and the candidate fails to pay the amount required by that section by the relevant date. 2016, c. 15, s. 60.

Penalties

(2) Subject to subsection (7), in the case of a default described in subsection (1),

(a) the candidate forfeits any office to which he or she was elected and the office is deemed to be vacant; and

(b) until the next regular election has taken place, the candidate is ineligible to be elected or appointed to any office to which this Act applies. 2016, c. 15, s. 60.

Notice of default

(3) In the case of a default described in subsection (1), the clerk shall,

(a) notify the candidate in writing that the default has occurred;

(b) if the candidate was elected, notify the council or board to which he or she was elected in writing that the default has occurred; and

(c) make available to the public the name of the candidate and a description of the nature of the default. 2016, c. 15, s. 60.

Clerk's report re filing requirements

(4) The clerk shall make available to the public a report setting out all candidates in an election and indicating whether each candidate complied with section 88.25. 2016, c. 15, s. 60.

Same

(5) The report mentioned in subsection (4) shall be made available on a website or in another electronic format as soon as possible after,

(a) April 30 in the year following a regular election; and

(b) 90 days after voting day in a by-election. 2016, c. 15, s. 60.

Application to court

(6) The candidate may, before the last day for filing a document under section 88.25 or 88.32, apply to the Superior Court of Justice to extend the time for filing the document under that section and, if the court is satisfied there are mitigating circumstances justifying a later date for filing the document, the court may grant an extension for the minimum period of time necessary to enable the candidate to file the document but the court shall not grant an extension of more than 90 days. 2016, c. 15, s. 60.

Notice to clerk

(7) If a candidate makes an application under subsection (6), the candidate shall notify the clerk in writing before 2 p.m. on the last day for filing a document under section 88.25 or 88.32 that the application has been made. 2016, c. 15, s. 60.

Effect of extension

(8) If the court grants an extension under subsection (6), the penalties set out in subsection (2) apply only if the candidate has not filed the document before the end of the extension. 2016, c. 15, s. 60.

Cessation of penalty

(9) The penalties set out in subsection (2) for a default described in clause (1) (a) do not take effect if, no later than 2 p.m. on the day that is 30 days after the applicable day for filing the document, the candidate files the relevant document as required under section 88.25 or 88.32 and pays the clerk a late filing fee of $500. 2016, c. 15, s. 60.

Late filing fee

(10) The late filing fee is the property of the municipality. 2016, c. 15, s. 60.

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v **Section Amendments with date in force (d/m/y)**

Election campaign period for candidates

88.24 (1) For the purposes of this Act, a candidate's election campaign period for an office shall be determined in accordance with the following rules:

1. The election campaign period begins on the day on which the clerk receives his or her nomination for the office under section 33.

2. The election campaign period ends on December 31 in the case of a regular election and 45 days after voting day in the case of a by-election.

3. Despite paragraph 2, the election campaign period ends,

   i. on the day the nomination is withdrawn under section 36 or is deemed to be withdrawn under subsection 29 (2),

   ii. on nomination day, if the nomination is rejected under section 35, or

   iii. on the day the candidate files the documents under section 88.25, as long as the documents are filed after voting day and before December 31 in the year of a regular election.

4. Despite paragraphs 2 and 3, if the candidate has a deficit at the time the election campaign period would otherwise end and the candidate notifies the clerk in the prescribed form on or before December 31 in the case of a regular election and 45 days after voting day in the case of a by-election, the election campaign period is extended and is deemed to have run continuously from the date of nomination until the earliest of,

   i. June 30 in the year following the regular election,

ii. the end of the six-month period following the 45th day after voting day, in the case of a by-election,

iii. the day he or she is nominated in a subsequent election for an office on the council or local board in respect of which the deficit was incurred,

iv. the day the candidate notifies the clerk in writing that he or she will not accept further contributions, and

v. the day A equals the total of B and C, where,

A = any further contributions,

B = the expenses incurred during the extension of the election campaign period, and

C = the amount of the candidate's deficit at the start of the extension of the election campaign period.

5. If, after the election campaign period ends under paragraph 2, 3 or 4, the candidate incurs expenses relating to a recount, a proceeding under section 83 (controverted elections) or a compliance audit and the candidate notifies the clerk in writing, the election campaign period is deemed to have recommenced, subject to subsection (2), and to have run continuously from the date of nomination until the earliest of,

i. the day the total of A and B equals the total of C and D, where,

A = any amount released to the candidate under subsection 88.31 (7),

B = any further contributions,

C = the expenses incurred after the election campaign period recommences, and

D = the amount of the candidate's deficit, if any, before the election campaign period recommenced,

ii. the day he or she is nominated in a subsequent election for an office on the council or local board in respect of which the expenses referred to in subparagraph i were incurred,

iii. the day the candidate notifies the clerk in writing that the candidate will not accept further contributions,

iv. June 30 in the year following the regular election, and

v. the end of the six-month period following the 45th day after voting day, in the case of a by-election. 2016, c. 15, s. 60; 2017, c. 10, Sched. 4, s. 8 (14, 15); 2021, c. 5, Sched. 4, s. 6.

Same

(2) An election campaign period that has ended under subparagraph 4 ii or 5 ii of subsection (1) cannot recommence under paragraph 5. 2016, c. 15, s. 60.

Multiple and combined campaigns

(3) The following rules apply if a person is a candidate, at different times in the same election, for more than one office on the same council or local board:

1. The person's campaigns for offices for which the election is conducted by general vote shall be deemed to be one campaign for the last office for which he or she is nominated, but the election campaign period begins on the day of the first nomination.

2. Each campaign for an office for which the election is conducted by ward is a separate campaign. 2016, c. 15, s. 60.

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v **Section Amendments with date in force (d/m/y)**

Candidates' financial statements, etc.

88.25 (1) On or before 2 p.m. on the filing date, a candidate shall file with the clerk with whom the nomination was filed a financial statement and auditor's report, each in the prescribed form, reflecting the candidate's election campaign finances,

(a) in the case of a regular election, as of December 31 in the year of the election; and

(b) in the case of a by-election, as of the 45th day after voting day. 2016, c. 15, s. 60.

Same

(2) If a candidate's election campaign period ends as described in paragraph 3 of subsection 88.24 (1), the financial statement and auditor's report must reflect the candidate's election campaign finances as of the day the election campaign period ended. 2016, c. 15, s. 60.

Error in financial statement

(3) If an error is identified in a filed financial statement, the candidate may withdraw the statement and, at the same time, file a corrected financial statement and auditor's report on or before the applicable filing date under section 88.30. 2016, c. 15, s. 60.

Supplementary financial statement and auditor's report

(4) If the candidate's election campaign period continues during all or part of the supplementary reporting period, the candidate shall, before 2 p.m. on the supplementary filing date, file a supplementary financial statement and auditor's report for the supplementary reporting period. 2016, c. 15, s. 60.

Same

(5) If a candidate's election campaign period ends as described in paragraph 3 of subsection 88.24 (1) and the election campaign period continued during all or part of the supplementary reporting period, the candidate shall, before 2 p.m. on the supplementary filing date, file a supplementary financial statement and auditor's report for the period commencing on the day the candidate's election campaign period ends and including the six-month period following the year of the election. 2016, c. 15, s. 60.

Supplementary report

(6) A supplementary financial statement or auditor's report shall include all the information contained in the initial statement or report filed under subsection (1), updated to reflect the changes to the candidate's campaign finances during the supplementary reporting period. 2016, c. 15, s. 60.

Auditor

(7) An auditor's report shall be prepared by an auditor licensed under the *Public Accounting Act, 2004*. 2016, c. 15, s. 60.

Exception re auditor's report

(8) No auditor's report is required if the total contributions received and total expenses incurred in the election campaign up to the end of the relevant period are each equal to or less than $10,000. 2016, c. 15, s. 60.

Notice to candidates, before filing date

(9) At least 30 days before the filing date, the clerk shall give notice of the following matters to every candidate whose nomination was filed with him or her:

1. All the filing requirements of this section.

2. The candidate's entitlement to receive a refund of the nomination filing fee if he or she meets the requirements of section 34.

3. The penalties set out in subsections 88.23 (2) and 92 (1). 2016, c. 15, s. 60.

Same, before supplementary filing date

(10) At least 30 days before the supplementary filing date, the clerk shall give notice of the filing requirements of this section and the penalties set out in subsections 88.23 (2) and 92 (1) to the following candidates:

1. A candidate who notified the clerk under paragraph 4 of subsection 88.24 (1).

2. A candidate who notified the clerk under paragraph 5 of subsection 88.24 (1). 2016, c. 15, s. 60.

Electronic filing

(11) The clerk may provide for electronic filing under this section and may establish conditions and limits with respect to electronic filing. 2016, c. 15, s. 60.

Documents filed after filing date

(12) If the documents required to be filed under this section are not filed by 2 p.m. on the day that is 30 days after the applicable day for filing the documents, the clerk shall accept the documents only for the purpose of making the documents available under subsection 88 (9.1). 2016, c. 15, s. 60.

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v **Section Amendments with date in force (d/m/y)**

Duties of registered third parties

88.26 (1) A registered third party shall ensure that,

(a) no contributions of money are accepted or expenses are incurred in relation to third party advertisements that appear during an election in a municipality unless

one or more campaign accounts are first opened at a financial institution exclusively for the purposes of the election campaign;

(b) all contributions of money are deposited into the campaign accounts;

(c) all funds in the campaign accounts are used exclusively for the purposes of the election campaign;

(d) all payments for expenses are made from the campaign accounts;

(e) contributions of goods or services are valued;

(f) receipts are issued for every contribution and obtained for every expense;

(g) records are kept of,

(i) the receipts issued for every contribution,

(ii) the value of every contribution,

(iii) whether a contribution is in the form of money, goods or services, and

(iv) the contributor's name and address;

(h) records are kept of every expense including the receipts obtained for each expense;

(i) records are kept of any claim for payment of an expense that the registered third party disputes or refuses to pay;

(j) records are kept of the gross income from a fund-raising function and the gross amount of money received at a fund-raising function by donations of $25 or less or by the sale of goods or services for $25 or less;

(k) records are kept of any loan and its terms under section 88.17;

(l) the records described in clauses (g), (h), (i), (j) and (k) are retained by the registered third party for the term of office of the members of the council or local board and until their successors are elected and the newly elected council or local board is organized;

(m) financial filings are made in accordance with sections 88.29 and 88.32;

(n) proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions under the direction of the registered third party;

(o) a contribution of money made or received in contravention of this Act or a by-law passed under this Act is returned to the contributor as soon as possible after

the registered third party becomes aware of the contravention;

(p) a contribution not returned to the contributor under clause (o) is paid to the clerk of the municipality in which the registered third party is registered;

(q) an anonymous contribution is paid to the clerk of the municipality in which the registered third party is registered; and

(r) each contributor is informed that a contributor shall not make contributions exceeding,

(i) a total of $1,200 to any one registered third party in relation to third party advertisements, and

(ii) a total of $5,000 to two or more registered third parties registered in the same municipality in relation to third party advertisements. 2016, c. 15, s. 61; 2017, c. 10, Sched. 4, s. 8 (16).

Exclusion of certain expenses

(2) Expenses described in paragraph 2 of subsection 88.19 (3) are not expenses for the purpose of clause (1) (a). 2016, c. 15, s. 61.

Contributions paid to clerk

(3) Contributions paid to the clerk under clause (1) (p) or (q) become the property of the local municipality. 2016, c. 15, s. 61.

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v **Section Amendments with date in force (d/m/y)**

Effect of default by registered third party

88.27 (1) Subject to subsection (6) and in addition to any other penalty that may be imposed under this Act, an individual, corporation or trade union that is registered as a registered third party in relation to an election in a municipality is not entitled to register in relation to a subsequent election in the municipality until after the next regular election has taken place,

(a) if the registered third party fails to file a document as required under section 88.29 or 88.32 by the relevant date;

(b) if a document filed under section 88.29 shows on its face a surplus, as described in section 88.31, and the registered third party fails to pay the amount required by

subsection 88.31 (4) to the clerk by the relevant date;

(c) if a document filed under section 88.29 shows on its face that the registered third party has incurred expenses exceeding what is permitted under section 88.21; or

(d) if a document filed under section 88.32 shows on its face a surplus and the registered third party fails to pay the amount required by that section by the relevant date. 2016, c. 15, s. 61.

Notice of default

(2) In the case of a default described in subsection (1), the clerk shall notify the registered third party in writing that the default has occurred and shall make available to the public the name of the registered third party and a description of the nature of the default. 2016, c. 15, s. 61.

Application to court

(3) The registered third party may, before the last day for filing a document under section 88.29 or 88.32, apply to the Superior Court of Justice to extend the time for filing the document under that section and, if the court is satisfied there are mitigating circumstances justifying a later date for filing the document, the court may grant an extension for the minimum period of time necessary to enable the registered third party to file the document but the court shall not grant an extension of more than 90 days. 2016, c. 15, s. 61.

Notice to clerk

(4) If a registered third party makes an application under subsection (3), the registered third party shall notify the clerk in writing before 2 p.m. on the last day for filing a document under section 88.29 or 88.32 that the application has been made. 2016, c. 15, s. 61.

Effect of extension

(5) If the court grants an extension under subsection (3), the penalty set out in subsection (1) applies only if the registered third party has not filed the document before the end of the extension. 2016, c. 15, s. 61.

Cessation of penalty

(6) The penalty set out in subsection (1) for a default described in clause (1) (a) does not take effect if, no later than 2 p.m. on the day that is 30 days after the applicable day for filing the document, the registered third party files the relevant document as required under section 88.29 or 88.32 and pays the clerk a late filing fee of $500. 2016, c. 15, s. 61.

Late filing fee

(7) The late filing fee is the property of the municipality. 2016, c. 15, s. 61.

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v **Section Amendments with date in force (d/m/y)**

Campaign period for registered third parties

88.28 For the purposes of this Act, the campaign period for a registered third party in relation to an election in a municipality shall be determined in accordance with the following rules:

1. The campaign period begins on the day on which the individual, corporation or trade union is registered as a registered third party in relation to the election in the municipality.

2. The campaign period ends on December 31 in the case of a regular election and 45 days after voting day in the case of a by-election.

2.1 Despite paragraph 2, the campaign period ends,

i. on the day the third party's registration is withdrawn under subsection 88.6 (15) or deemed to be withdrawn under subsection 88.6 (16), or

ii. on the day the third party advertiser files the documents under section 88.29, as long as the documents are filed after voting day and before December 31 in the year of a regular election.

3. Despite paragraph 2, if the registered third party has a deficit at the time the campaign period would otherwise end and the registered third party notifies the clerk in the prescribed form on or before December 31 in the case of a regular election and 45 days after voting day in the case of a by-election, the campaign period is extended and is deemed to have run continuously from the date on which the registered third party was registered until the earliest of,

i. June 30 in the year following the regular election,

ii. the end of the six-month period following the 45th day after voting day, in the case of a by-election,

iii. the day the registered third party notifies the clerk in writing that he, she or it will not accept further contributions, and

iv. the day A equals the total of B and C, where,

A = any further contributions,

B = the expenses incurred during the extension of the campaign period, and

C = the amount of the registered third party's deficit at the start of the extension of the campaign period.

4. If, after the campaign period ends under paragraph 2 or 3, the registered third party incurs expenses relating to a compliance audit and he, she or it notifies the clerk in writing, the campaign period is deemed to have recommenced and to have run continuously from the day on which the registered third party was registered until the earliest of,

i. the day the total of A and B equals the total of C and D, where,

A = any amount released to the registered third party under subsection 88.31 (7),

B = any further contributions,

C = the expenses incurred after the campaign period recommences, and

D = the amount of the registered third party's deficit, if any, before the campaign period recommenced,

ii. the day the registered third party notifies the clerk in writing that he, she or it will not accept further contributions,

iii. June 30 in the year following the regular election, and

iv. the end of the six-month period following the 45th day after voting day, in the case of a by-election. 2016, c. 15, s. 61; 2017, c. 10, Sched. 4, s. 8 (17, 18); 2021, c. 5, Sched. 4, s. 7.

v **Section Amendments with date in force (d/m/y)**

Financial statements, etc., of registered third parties

88.29 (1) On or before 2 p.m. on the filing date, a registered third party shall file with the clerk of the municipality in which he, she or it registered a financial statement and auditor's report, each in the prescribed form, reflecting the registered third party's campaign finances in relation to third party advertisements,

(a) in the case of a regular election, as of December 31 in the year of the election; and

(b) in the case of a by-election, as of the 45th day after voting day. 2016, c. 15, s. 61.

Same

(1.1) If a third party's campaign period ends as described in paragraph 2.1 of section 88.28, the financial statement and auditor's report must reflect the third party's campaign finances as of the day the campaign period ended. 2021, c. 5, Sched. 4, s. 8.

Error in financial statement

(2) If an error is identified in a filed financial statement, the registered third party may withdraw the statement and, at the same time, file a corrected financial statement and auditor's report on or before the applicable filing date under section 88.30. 2016, c. 15, s. 61.

Supplementary financial statement and auditor's report

(3) If the campaign period for the registered third party in relation to an election in the municipality continues during all or part of the supplementary reporting period, the registered third party shall, before 2 p.m. on the supplementary filing date, file a supplementary financial statement and auditor's report for the supplementary reporting period. 2016, c. 15, s. 61.

Supplementary report

(4) A supplementary financial statement or auditor's report shall include all the information contained in the initial statement or report filed under subsection (1),

updated to reflect the changes to the registered third party's campaign finances during the supplementary reporting period. 2016, c. 15, s. 61.

Auditor

(5) An auditor's report shall be prepared by an auditor licensed under the *Public Accounting Act, 2004*. 2016, c. 15, s. 61.

Exception re auditor's report

(6) No auditor's report is required if the total contributions received and total expenses incurred in the registered third party's campaign in relation to third party advertisements during an election in the municipality up to the end of the relevant period are each equal to or less than $10,000. 2016, c. 15, s. 61.

Notice from clerk, before filing date

(7) At least 30 days before the filing date, the clerk shall give notice of the filing requirements of this section and the penalties set out in subsections 88.27 (1) and 92 (4) to every registered third party that registered in the municipality. 2016, c. 15, s. 61.

Same, before supplementary filing date

(8) At least 30 days before the supplementary filing date, the clerk shall give notice of the filing requirements of this section and the penalties set out in subsections 88.27 (1) and 92 (4) to every registered third party that gave notice to the clerk under paragraph 4 of section 88.28. 2016, c. 15, s. 61.

Electronic filing

(9) The clerk may provide for electronic filing under this section and may establish conditions and limits with respect to electronic filing. 2016, c. 15, s. 61.

Documents filed after filing date

(10) If the documents required to be filed under this section are not filed by 2 p.m. on the day that is 30 days after the applicable day for filing the documents, the clerk shall accept the documents only for the purpose of making the documents available under subsection 88 (9.1). 2016, c. 15, s. 61.

Report by clerk

(11) As soon as possible after April 30 in the year following a regular election or 75 days after voting day in a by-election, the clerk shall make available to the public on a website or in another electronic format a list of all registered third parties for the election along with an indication of whether each has filed a financial statement and auditor's report under subsection (1). 2016, c. 15, s. 61.

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v **Section Amendments with date in force (d/m/y)**

Filing dates and reporting periods for candidates, registered third parties

Filing date

88.30 (1) The filing date for documents that are to be filed under section 88.25 or 88.29 is the following:

1. In the case of a regular election, the last Friday in March following the election.
2. In the case of a by-election, 75 days after voting day. 2016, c. 15, s. 62.

Supplementary filing date

(2) The supplementary filing date for documents that are to be filed under section 88.25 or 88.29 is the following:

1. In the case of a regular election, the last Friday in September in the year following the election.
2. In the case of a by-election, 30 days after the expiry of the six-month period described in paragraph 2 of subsection (3). 2016, c. 15, s. 62.

Supplementary reporting period

(3) The supplementary reporting period for documents that are to be filed under section 88.25 or 88.29 is the following:

1. In the case of a regular election, the six-month period following the year of the election.
2. In the case of a by-election, the six-month period following the 45th day after voting day. 2016, c. 15, s. 62.

v **Section Amendments with date in force (d/m/y)**

Treatment of surplus and deficit

88.31 (1) A candidate or registered third party has a surplus if the total credits exceed the total debits, and a deficit if the reverse is true. 2016, c. 15, s. 62.

Total credits

(2) For the purposes of subsection (1), the total credits are the sum of,

(a) the contributions under section 88.15;

(b) any amounts of $25 or less that were donated at fund-raising functions;

(c) any amounts of $25 or less for goods or services that were sold at fund-raising functions;

(d) interest earned on campaign accounts; and

(e) revenue from the sale of election materials. 2016, c. 15, s. 62.

Total debits

(3) For the purposes of subsection (1), the total debits are the sum of the expenses under section 88.19. 2016, c. 15, s. 62.

Surplus paid to clerk

(4) If the financial statement or supplementary financial statement filed with the clerk shows a surplus and the campaign period has ended at the time the statement is filed, the candidate or registered third party shall, when the statement is filed, pay the surplus to the clerk, reduced by the amount of any refund under subsection (6). 2016, c. 15, s. 62.

Surplus held in trust by clerk

(5) The clerk shall hold the amount paid under subsection (4) in trust for the candidate or registered third party. 2016, c. 15, s. 62.

Refund

(6) If a candidate or registered third party who has a surplus has made contributions to the campaign or, in the case of an individual, if his or her spouse has made contributions

to the campaign, the candidate or registered third party may, after the campaign period ends but before filing the financial statement or supplementary financial statement, as the case may be, refund to the candidate or registered third party or to the spouse, as the case may be, an amount that does not exceed the lesser of,

(a) the relevant contributions;

(b) the surplus. 2016, c. 15, s. 62.

Release of amount if campaign recommences

(7) If the campaign period for the candidate or registered third party recommences under paragraph 5 of subsection 88.24 (1) or paragraph 4 of section 88.28, as applicable, the clerk shall pay the amount held in trust to the candidate or registered third party, with interest. 2016, c. 15, s. 62.

Amount to become property of municipality or local board

(8) For a candidate, the amount held in trust becomes the property of the municipality or local board, as the case may be, when all of the following conditions are satisfied:

1. The election campaign period has ended under paragraph 2, 3 or 4 of subsection 88.24 (1).

2. It is no longer possible to recommence the campaign period under paragraph 5 of subsection 88.24 (1).

3. No recount, proceeding under section 83 (controverted elections) or compliance audit has been commenced.

4. The period for commencing a recount, a proceeding under section 83 or a compliance audit has expired. 2016, c. 15, s. 62.

Same, for registered third party

(9) For a registered third party, the amount held in trust becomes the property of the municipality when all of the following conditions are satisfied:

1. The campaign period has ended under paragraph 2 or 3 of section 88.28.

2. It is no longer possible to recommence the campaign period under paragraph 4 of section 88.28.

3. No compliance audit has been commenced.

4. The period for commencing a compliance audit has expired. 2016, c. 15, s. 62.

Transition, candidate's total debits

(10) For the 2018 regular election and for any by-election that takes place after this section comes into force and before that regular election, the total debits of a candidate shall be determined as if subsection (3) read as follows:

Total debits

(3) For the purposes of subsection (1), the total debits of a candidate are the sum of,

(a) the candidate's expenses under section 88.19 or the predecessor to that section; and

(b) any deficit from a previous election campaign of the candidate if that campaign,

(i) related to an office on the same council or local board as the present campaign, and

(ii) was in the previous regular election or a subsequent by-election. 2016, c. 15, s. 62.

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v **Section Amendments with date in force (d/m/y)**

Return of surplus for subsequent expenses

88.32 (1) This section applies if all of the following circumstances exist:

1. A candidate or registered third party has paid a surplus to the clerk under subsection 88.31 (4).

2. The candidate's election campaign period has ended under paragraph 2, 3 or 4 of subsection 88.24 (1) or the registered third party's campaign period has ended under paragraph 2 or 3 of section 88.28.

3. It is no longer possible to recommence the campaign period under paragraph 5 of subsection 88.24 (1) or paragraph 4 of section 88.28.

4. The candidate or registered third party subsequently incurs expenses relating to a compliance audit. 2016, c. 15, s. 62.

Return of surplus

(2) If the candidate or registered third party notifies the clerk in writing that he, she or it is incurring subsequent expenses relating to a compliance audit, the clerk shall return the amount of the surplus, with interest, to the candidate or registered third party. 2016, c. 15, s. 62.

Effect of return of surplus

(3) If the surplus is returned to the candidate or registered third party, he, she or it is permitted to incur expenses relating to a compliance audit but no other expenses may be incurred. 2016, c. 15, s. 62.

Reporting periods

(4) The first reporting period of the candidate or registered third party under this section begins on the day after the surplus is returned and ends 90 days later, and each successive period of 90 days is a further reporting period. 2016, c. 15, s. 62.

Financial statements

(5) For each reporting period, the candidate or registered third party shall file with the clerk a financial statement in the prescribed form reflecting the expenses of the candidate or registered third party for the reporting period, and the financial statement must be filed no later than 2 p.m. on the 10th day after the end of the reporting period. 2016, c. 15, s. 62.

Final financial statement

(6) If, during a reporting period, the amount of surplus is reduced to zero or any remaining surplus is no longer required by the candidate or registered third party for expenses relating to a compliance audit, the candidate or registered third party shall file a final financial statement. 2016, c. 15, s. 62.

Repayment of remaining surplus

(7) If the final financial statement indicates that there is any remaining surplus, the candidate or registered third party shall pay the remaining surplus to the clerk when the financial statement is filed. 2016, c. 15, s. 62.

Remaining surplus held in trust by clerk

(8) The clerk shall hold the amount of the remaining surplus in trust for the candidate or registered third party. 2016, c. 15, s. 62.

Release of amount if another compliance audit

(9) If, after the candidate or registered third party pays the remaining surplus to the clerk, another compliance audit commences, subsections (2) to (8) apply, with necessary modifications, with respect to the subsequent compliance audit. 2016, c. 15, s. 62.

Amount to become property of municipality or local board

(10) The amount of the remaining surplus becomes the property of the municipality or the local board, as the case may be, when the compliance audit is finally determined and the period for commencing any other compliance audit has expired. 2016, c. 15, s. 62.

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v **Section Amendments with date in force (d/m/y)**

Compliance Audits and Reviews of Contributions

Compliance audit of candidates' campaign finances

Application by elector

88.33 (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances, even if the candidate has not filed a financial statement under section 88.25. 2016, c. 15, s. 63.

Requirements

(2) An application for a compliance audit shall be made to the clerk of the municipality or the secretary of the local board for which the candidate was nominated for office, and it shall be in writing and shall set out the reasons for the elector's belief. 2016, c. 15, s. 63.

Deadline for applications

(3) The application must be made within 90 days after the latest of the following dates:

1. The filing date under section 88.30.

2. The date the candidate filed a financial statement, if the statement was filed within 30 days after the applicable filing date under section 88.30.

3. The candidate's supplementary filing date, if any, under section 88.30.

4. The date on which the candidate's extension, if any, under subsection 88.23 (6) expires. 2016, c. 15, s. 63.

Compliance audit committee

(4) Within 10 days after receiving the application, the clerk of the municipality or the secretary of the local board, as the case may be, shall forward the application to the compliance audit committee. 2016, c. 15, s. 63.

Notice of meetings

(5) Reasonable notice of the meetings of the committee under this section shall be given to the candidate, the applicant and the public. 2017, c. 20, Sched. 10, s. 1.

Open meetings

(5.1) The meetings of the committee under this section shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sched. 10, s. 1.

Same

(6) Subsection (5.1) applies despite sections 207 and 208.1 of the *Education Act*. 2017, c. 20, Sched. 10, s. 1.

Decision of committee

(7) Within 30 days after the committee has received the application, the committee shall consider the application and decide whether it should be granted or rejected. 2016, c. 15, s. 63.

Same

(8) The decision of the committee to grant or reject the application, and brief written reasons for the decision, shall be given to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, c. 15, s. 63.

Appeal

(9) The decision of the committee under subsection (7) may be appealed to the Superior Court of Justice within 15 days after the decision is made, and the court may make any decision the committee could have made. 2016, c. 15, s. 63.

Appointment of auditor

(10) If the committee decides under subsection (7) to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. 2016, c. 15, s. 63.

Same

(11) Only auditors licensed under the *Public Accounting Act, 2004* or prescribed persons are eligible to be appointed under subsection (10). 2016, c. 15, s. 63.

Duty of auditor

(12) The auditor shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate. 2016, c. 15, s. 63.

Who receives report

(13) The auditor shall submit the report to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, c. 15, s. 63.

Report to be forwarded to committee

(14) Within 10 days after receiving the report, the clerk of the municipality or the secretary of the local board shall forward the report to the compliance audit committee. 2016, c. 15, s. 63.

Powers of auditor

(15) For the purpose of the audit, the auditor,

(a) is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and

(b) has the powers set out in section 33 of the *Public Inquiries Act, 2009* and section 33 applies to the audit. 2016, c. 15, s. 63.

Costs

(16) The municipality or local board shall pay the auditor's costs of performing the audit. 2016, c. 15, s. 63.

Decision

(17) The committee shall consider the report within 30 days after receiving it and, if the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, the committee shall decide whether to commence a legal proceeding against the candidate for the apparent contravention. 2016, c. 15, s. 63.

Notice of decision, reasons

(18) The decision of the committee under subsection (17), and brief written reasons for the decision, shall be given to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, c. 15, s. 63.

Immunity

(19) No action or other proceeding for damages shall be instituted against an auditor appointed under subsection (10) for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith. 2016, c. 15, s. 63.

Saving provision

(20) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to election campaign finances. 2016, c. 15, s. 63.

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v **Section Amendments with date in force (d/m/y)**

Review of contributions to candidates

88.34 (1) The clerk shall review the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.9. 2016, c. 15, s. 64.

Report, contributions to candidates for council

(2) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30, the clerk shall prepare a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits under section 88.9 and,

(a) if the contributor's total contributions to a candidate for office on a council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to the candidate; and

(b) if the contributor's total contributions to two or more candidates for office on the same council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to all candidates for office on the same council. 2016, c. 15, s. 64.

Same

(3) The clerk shall prepare a separate report under subsection (2) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.9. 2016, c. 15, s. 64.

Same

(4) The clerk shall forward each report prepared under subsection (2) to the compliance audit committee. 2016, c. 15, s. 64.

Report, contributions to candidates for a local board

(5) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30, the clerk shall prepare a report identifying each contributor to a candidate for office on a local board who appears to have contravened any of the contribution limits under section 88.9 and,

(a) if the contributor's total contributions to a candidate for office on a local board appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to the candidate; and

(b) if the contributor's total contributions to two or more candidates for office on the same local board appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to all candidates for office on the same local board. 2016, c. 15, s. 64.

Same

(6) The clerk shall prepare a separate report under subsection (5) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.9. 2016, c. 15, s. 64.

Same

(7) The clerk shall forward each report prepared under subsection (5) to the secretary of the local board for which the candidate was nominated for office and, within 10 days after receiving the report, the secretary of the local board shall forward it to the compliance audit committee. 2016, c. 15, s. 64.

Decision of compliance audit committee

(8) Within 30 days after receiving a report under subsection (4) or (7), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention. 2016, c. 15, s. 64.

Notice of meetings

(9) Reasonable notice of the meetings of the committee under subsection (8) shall be given to the contributor, the applicable candidate and the public. 2017, c. 20, Sched. 10, s. 2.

Open meetings

(9.1) The meetings of the committee under subsection (8) shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sched. 10, s. 2.

Same

(10) Subsection (9.1) applies despite sections 207 and 208.1 of the *Education Act*. 2017, c. 20, Sched. 10, s. 2.

Notice of decision, reasons

(11) The decision of the committee under subsection (8), and brief written reasons for the decision, shall be given to the contributor and to the clerk of the municipality or the secretary of the local board, as the case may be. 2016, c. 15, s. 64.

Saving provision

(12) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to contribution limits. 2016, c. 15, s. 64.

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v **Section Amendments with date in force (d/m/y)**

Compliance audit of registered third parties

Application by elector

88.35 (1) An elector who is entitled to vote in an election in a municipality and believes on reasonable grounds that a registered third party who is registered in relation to the election in the municipality has contravened a provision of this Act relating to campaign finances may apply for a compliance audit of the campaign finances of the registered third party in relation to third party advertisements, even if the registered third party has not filed a financial statement under section 88.29. 2016, c. 15, s. 65.

Requirements

(2) An application for a compliance audit shall be made to the clerk of the municipality in which the registered third party was registered, and it shall be made in writing and shall set out the reasons for the elector's belief. 2016, c. 15, s. 65.

Deadline

(3) The application must be made within 90 days after the latest of the following dates:

1. The filing date under section 88.30.

2. The date the registered third party filed a financial statement, if the statement was filed within 30 days after the applicable filing date under section 88.30.

3. The supplementary filing date, if any, for the registered third party under section 88.30.

4. The date on which the registered third party's extension, if any, under subsection 88.27 (3) expires. 2016, c. 15, s. 65.

Application of s. 88.33 (4) to (20)

(4) Subsections 88.33 (4) to (20) apply to a compliance audit under this section, with the following modifications:

1. A reference to a candidate shall be read as a reference to the registered third party.

2. A reference to the clerk with whom the candidate filed his or her nomination shall be read as a reference to the clerk of the municipality in which the registered third party is registered.

3. A reference to election campaign finances shall be read as a reference to the campaign finances of the registered third party in relation to third party advertisements that appear during an election in the municipality. 2016, c. 15, s. 65.

v **Section Amendments with date in force (d/m/y)**

Review of contributions to registered third parties

88.36 (1) The clerk shall review the contributions reported on the financial statements submitted by a registered third party under section 88.29 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.13. 2016, c. 15, s. 65.

Report by the clerk

(2) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30 for a registered third party, the clerk shall prepare a report identifying each contributor to the registered third party who appears to have contravened any of the contribution limits under section 88.13 and,

(a) if the contributor's total contributions to a registered third party that is registered in the municipality appear to exceed the limit under section 88.13, the report shall set out the contributions made by that contributor to the registered third party in relation to third party advertisements; and

(b) if the contributor's total contributions to two or more registered third parties that are registered in the municipality appear to exceed the limit under section 88.13, the report shall set out the contributions made by that contributor to all registered third parties in the municipality in relation to third party advertisements. 2016, c. 15, s. 65.

Same

(3) The clerk shall prepare a separate report under subsection (2) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.13. 2016, c. 15, s. 65.

Same

(4) The clerk shall forward each report prepared under subsection (2) to the compliance audit committee. 2016, c. 15, s. 65.

Decision of compliance audit committee

(5) Within 30 days after receiving a report under subsection (4), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention. 2016, c. 15, s. 65.

Notice of meetings

(6) Reasonable notice of the meetings of the committee under subsection (5) shall be given to the contributor, the registered third party and the public. 2017, c. 20, Sched. 10, s. 3.

Open meetings

(6.1) The meetings of the committee under subsection (5) shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sched. 10, s. 3.

Notice of decision, reasons

(7) The decision of the committee under subsection (5), and brief written reasons for the decision, shall be given to the contributor and to the clerk of the municipality. 2016, c. 15, s. 65.

Saving provision

(8) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to contribution limits. 2016, c. 15, s. 65.

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v **Section Amendments with date in force (d/m/y)**

Compliance audit committee

88.37 (1) A council or local board shall establish a compliance audit committee before October 1 of an election year for the purposes of this Act. 2016, c. 15, s. 66.

Composition

(2) The committee shall be composed of not fewer than three and not more than seven members and shall not include,

(a) employees or officers of the municipality or local board;

(b) members of the council or local board;

(c) any persons who are candidates in the election for which the committee is established; or

(d) any persons who are registered third parties in the municipality in the election for which the committee is established. 2016, c. 15, s. 66.

Eligibility for appointment

(3) A person who has such qualifications and satisfies such eligibility requirements as may be prescribed is eligible for appointment to the committee. 2016, c. 15, s. 66.

Same

(4) In appointing persons to the committee, the council or local board shall have regard to the prescribed eligibility criteria. 2016, c. 15, s. 66.

Term of office

(5) The term of office of the committee is the same as the term of office of the council or local board that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed. 2016, c. 15, s. 66.

Role of clerk or secretary

(6) The clerk of the municipality or the secretary of the local board, as the case may be, shall establish administrative practices and procedures for the committee and shall carry out any other duties required under this Act to implement the committee's decisions. 2016, c. 15, s. 66.

Costs

(7) The council or local board, as the case may be, shall pay all costs in relation to the committee's operation and activities. 2016, c. 15, s. 66.

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v **Section Amendments with date in force (d/m/y)**

OFFENCES, PENALTIES AND ENFORCEMENT

Offences

89 A person is guilty of an offence if he or she,

(a) votes without being entitled to do so;

(b) votes more times than this Act allows;

(c) votes in a voting place in which he or she is not entitled to vote;

(d) induces or procures a person to vote when that person is not entitled to do so;

(e) having appointed a voting proxy that remains in force, votes otherwise than by the proxy;

(f) having been appointed a voting proxy, votes under the authority of the proxy when the elector has cancelled the proxy, is no longer entitled to vote or has died;

(g) before or during an election, publishes a false statement of a candidate's withdrawal;

(h) furnishes false or misleading information to a person whom this Act authorizes to obtain information;

(i) without authority, supplies a ballot to anyone;

(j) delivers to the deputy returning officer to be placed in a ballot box a paper other than the ballot the deputy returning officer gave him or her;

(k) takes a ballot away from the voting place;

(l) at an election, takes, opens or otherwise deals with a ballot, a ballot box, or a book or package of ballots without having authority to do so;

(m) attempts to do something described in clauses (a) to (l). 1996, c. 32, Sched., s. 89; 2009, c. 33, Sched. 21, s. 8 (55).

v **Section Amendments with date in force (d/m/y)**

Corrupt practices: certain offences committed knowingly

90 (1) If, when a person is convicted of an offence under section 89, the presiding judge finds that the offence was committed knowingly, the offence also constitutes a corrupt practice. 1996, c. 32, Sched., s. 90 (1); 2009, c. 33, Sched. 21, s. 8 (56).

Corrupt practices: bribery

(2) An offence described in subsection (3) constitutes a corrupt practice and a person who commits it is, on conviction, disqualified from voting at an election until the next regular election has taken place after the election to which the offence relates, in addition to being liable to any other penalty provided for in this Act. 2009, c. 33, Sched. 21, s. 8 (57).

Same

(3) No person shall, directly or indirectly,

(a) offer, give, lend, or promise or agree to give or lend any valuable consideration, in connection with the exercise or non-exercise of an elector's vote;

(b) advance, pay or cause to be paid money intending that it be used to commit an offence referred to in clause (a), or knowing that it will be used to repay money used in that way;

(c) give, procure or promise or agree to procure an office or employment in connection with the exercise or non-exercise of an elector's vote;

(d) apply for, accept or agree to accept any valuable consideration or office or employment in connection with the exercise or non-exercise of an elector's vote;

(e) give, procure or promise or agree to procure an office or employment to induce a person to become a candidate, refrain from becoming a candidate or withdraw his or her candidacy;

(f) offer, give, lend, or promise or agree to give or lend any valuable consideration in order to induce a person to become a candidate, refrain from becoming a candidate or withdraw his or her candidacy. 1996, c. 32, Sched., s. 90 (3); 2016, c. 15, s. 67.

Corrupt practices by election officials: miscounting votes

(4) A deputy returning officer or other election official who knowingly miscounts the votes or knowingly prepares a false statement of the votes is guilty of an offence that constitutes a corrupt practice. 1996, c. 32, Sched., s. 90 (4); 2009, c. 33, Sched. 21, s. 8 (58).

Same: false ballot

(5) A deputy returning officer who knowingly places in a ballot box a paper that purports to be, but is not, a ballot capable of being used as such at an election, is guilty of an offence that constitutes a corrupt practice. 1996, c. 32, Sched., s. 90 (5); 2009, c. 33, Sched. 21, s. 8 (59).

Neglect of duty

(6) A clerk or other election official who wilfully fails to perform a duty imposed by this Act is guilty of an offence that constitutes a corrupt practice. 1996, c. 32, Sched., s. 90 (6); 2009, c. 33, Sched. 21, s. 8 (60).

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v **Section Amendments with date in force (d/m/y)**

Corrupt practice and ineligibility for office

91 (1) If a person is convicted of a corrupt practice under this Act, or of an offence under the *Criminal Code* (Canada) in connection with an act or omission that relates to an election to which this Act applies, then, in addition to any other penalty provided for in this Act,

(a) any office to which the person was elected is forfeited and becomes vacant; and

(b) the person is ineligible to be nominated for, or elected or appointed to, any office until the next two regular elections have taken place after the election to which the offence relates. 2009, c. 33, Sched. 21, s. 8 (61).

Exception

(2) However, if the presiding judge finds that the person committed the corrupt practice or offence under the *Criminal Code* (Canada) without any intent of causing or contributing to a false outcome of the election, clause (1) (b) does not apply. 2009, c. 33, Sched. 21, s. 8 (61).

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v **Section Amendments with date in force (d/m/y)**

Offences re campaign finances

Offences by candidate

92 (1) A candidate is guilty of an offence and, on conviction, in addition to any other penalty that may be imposed under this Act, is subject to the penalties described in subsection 88.23 (2),

(a) if the candidate incurs expenses that exceed the amount determined for the office under section 88.20; or

(b) if the candidate files a document under section 88.25 or 88.32 that is incorrect or otherwise does not comply with that section. 2016, c. 15, s. 68 (1).

Exception, action in good faith

(2) However, if the presiding judge finds that the candidate, acting in good faith, committed the offence inadvertently or because of an error in judgment, the penalties described in subsection 88.23 (2) do not apply. 2016, c. 15, s. 68 (1).

Additional penalty, candidates

(3) If the expenses incurred by or under the direction of a candidate exceed the amount determined for the office under section 88.20, the candidate is liable to a fine equal to the excess, in addition to any other penalty provided for in the Act. 2016, c. 15, s. 68 (1).

Offences by registered third party

(4) A registered third party is guilty of an offence and, on conviction, in addition to any other penalty that may be imposed under this Act, is subject to the penalty described in subsection 88.27 (1),

(a) if the registered third party incurs expenses that exceed the amount determined under section 88.21; or

(b) if the registered third party files a document under section 88.29 or 88.32 that is incorrect or otherwise does not comply with that section. 2016, c. 15, s. 68 (2).

Exception, action in good faith

(5) However, if the presiding judge finds that the registered third party, acting in good faith, committed the offence inadvertently or because of an error in judgment, the penalty described in subsection 88.27 (1) does not apply. 2016, c. 15, s. 68 (2).

Additional penalty, registered third parties

(6) If the expenses incurred by or under the direction of a registered third party exceed the amount determined under section 88.21, the registered third party is liable to a fine equal to the excess, in addition to any other penalty provided for in the Act. 2016, c. 15, s. 68 (2).

v **Section Amendments with date in force (d/m/y)**

Obstruction, etc.

93 No person shall obstruct a person making an investigation or examination under this Act or withhold, conceal or destroy anything relevant to the investigation or examination. 1996, c. 32, Sched., s. 93.

General offence

94 A person who contravenes any provision of this Act or a regulation under this Act or a by-law passed by a municipality under this Act is guilty of an offence. 2016, c. 15, s. 69.

v **Section Amendments with date in force (d/m/y)**

General penalty, individual

94.1 (1) An individual who is convicted of an offence under this Act is liable to the following penalties in addition to any other penalty provided for in this Act:

1. For any offence, a fine of not more than $25,000.

2. For any offence other than a corrupt practice, the penalties described in subsection 88.23 (2) and 88.27 (1).

3. For an offence under section 90, imprisonment for a term of not more than six months.

4. For any offence that the presiding judge finds that the individual committed knowingly, imprisonment for a term of not more than six months. 2009, c. 33, Sched. 21, s. 8 (68); 2016, c. 15, s. 70.

Same, corporation or trade union

(2) A corporation or trade union that is convicted of an offence under this Act is liable to a fine of not more than $50,000 in addition to any other penalty provided for in this Act. 2009, c. 33, Sched. 21, s. 8 (68).

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v **Section Amendments with date in force (d/m/y)**

Limitation period

94.2 (1) No prosecution for an offence under this Act in relation to a regular election shall be commenced after November 15 of the fourth year following the year in which the regular election was held. 2009, c. 33, Sched. 21, s. 8 (68); 2017, c. 10, Sched. 4, s. 8 (19).

Transition

(1.1) Despite subsection (1), no prosecution for an offence under this Act in relation to the 2014 regular election shall be commenced after December 1, 2018. 2017, c. 10, Sched. 4, s. 8 (20).

Same

(2) No prosecution for an offence under this Act in relation to a by-election shall be commenced after November 15 of the year of the next regular election after the by-election. 2009, c. 33, Sched. 21, s. 8 (68); 2017, c. 10, Sched. 4, s. 8 (21).

Transition

(2.1) Despite subsection (2), no prosecution for an offence under this Act in relation to a by-election held after the 2014 regular election and before the 2018 regular election shall be commenced after December 1, 2018. 2017, c. 10, Sched. 4, s. 8 (22).

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v **Section Amendments with date in force (d/m/y)**

REGULATIONS

Regulations

95 (1) The Minister may, by regulation,

(a) prescribe anything that is permitted or required to be prescribed or that is permitted or required to be done in accordance with the regulations or as provided in the regulations;

(a.1) prescribe forms;

(b) specify circumstances in which a person is, and is not, considered to be a tenant for the purpose of clause 17 (2) (a);

(b.1) prescribe a date for the purpose of subsection 19 (1.1);

(b.2) fix the amount of the nomination filing fee referred to in clause 33 (2) (c) and specify the manner in which it shall be paid;

(c) prescribe formulas for the purposes of subsections 88.20 (6) and (9) and 88.21 (6) and (9);

(c.1) prescribe documents or classes of documents for the purpose of paragraph 1 of subsection 52 (1);

(d) prescribe rules for the purpose of section 54 (counting of votes);

(e) prescribe rules for the purpose of section 60 (manner of doing recounts);

(f) prescribe eligibility criteria for the purpose of subsection 88.37 (3) (compliance audit committee);

(g) REPEALED: 2016, c. 15, s. 71 (2).

(h) prescribe matters of provincial interest for the purpose of paragraph 2 of subsection 8.1 (2);

(i) Repealed: 2016, c. 15, s. 71 (2).

(j) govern and clarify the application of the provisions of this Act related to questions under clauses 8 (1) (b) and (c);

(k) vary the application of the provisions of this Act related to questions under clauses 8 (1) (b) and (c) if, in the opinion of the Minister, it is necessary or desirable to do so to further the purposes of this Act. 1996, c. 32, Sched., s. 95 (1); 1999, c. 14, Sched. F, s. 6 (5); 2000, c. 5, s. 39 (1, 2); 2009, c. 33, Sched. 21, s. 8 (69); 2016, c. 15, s. 71 (1-4); 2020, c. 26, Sched. 2, s. 10.

General or particular

(2) A regulation made under clause (1) (a.1), (b), (b.1), (b.2), (f), (h), (j) or (k) may be general or particular in its application. 2000, c. 5, s. 39 (3); 2016, c. 15, s. 71 (5).

Transitional regulations, *Municipal Elections Modernization Act, 2016*

(2.1) The Minister may, by regulation, provide for transitional matters that, in the opinion of the Minister, are necessary or desirable in connection with the Municipal *Elections Modernization Act, 2016*. 2016, c. 15, s. 71 (6).

Same

(2.2) A regulation made under subsection (2.1) applies despite any provision in this or any other public or private Act. 2016, c. 15, s. 71 (6).

Different formulas

(3) Under clause (1) (c), a different formula may be prescribed for candidates for the office of head of council of a municipality than is prescribed for candidates for other offices. 1996, c. 32, Sched., s. 95 (3); 2016, c. 15, s. 71 (7).

Retroactivity

(4) A regulation made under clause (1) (h) may be made applicable with respect to a question in respect of which a by-law under clause 8 (1) (b) is passed before the regulation comes into force, if the vote has not been held on the question when the regulation comes into force. 1999, c. 14, Sched. F, s. 6 (7); 2000, c. 5, s. 39 (4).

v **Section Amendments with date in force (d/m/y)**

Transitional regulations, municipal restructuring

96 (1) The Minister may, by regulation, provide for transitional matters that affect an election and arise out of the restructuring of a municipality or local board. 1996, c. 32, Sched., s. 96 (1).

Same

(2) A regulation made under subsection (1) may be made retroactive,

(a) in the case of a regular election, to January 1 in that year;

(b) in the case of a by-election, to the first day of the period described in paragraph 2 of subsection 65 (4). 1996, c. 32, Sched., s. 96 (2).

Same

(3) A regulation made under subsection (1) may be particular or general in its application. 1996, c. 32, Sched., s. 96 (3).

Same

(4) A regulation made under subsection (1) applies despite anything else in this or any other public or private Act. 1996, c. 32, Sched., s. 96 (4).

97 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1996, c. 32, Sched., s. 97.