



16th Legislative Assembly of the Northwest Territories

Standing Committee on Rules and Procedures

Auxiliary Report on the Review
of the Report of the Chief Electoral
Officer on the Administration of
the 2007 Election

Chair: Mr. Robert Hawkins, MLA

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May 27, 2009

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Rules and Procedures is pleased to provide its Auxiliary Report on the Review of the Report of the Chief Electoral Officer on the Administration of the 2007 Election and commends it to the House.

Robert Hawkins, MLA
Chairperson

**STANDING COMMITTEE ON
RULES AND PROCEDURES**

**AUXILIARY REPORT ON THE REVIEW OF THE
REPORT OF THE CHIEF ELECTORAL OFFICER
ON THE ADMINISTRATION OF THE 2007 ELECTION**

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STANDING COMMITTEE ON RULES AND PROCEDURES

AUXILIARY REPORT ON THE REVIEW OF THE REPORT OF THE CHIEF ELECTORAL OFFICER ON THE ADMINISTRATION OF THE 2007 ELECTION

INTRODUCTION

The Standing Committee on Rules and Procedures tabled its first report (Committee Report 4-16) on the Review of the Report of the Chief Electoral Officer on the Administration of the 2007 Election on March 11, 2009. That report stated that additional research would be undertaken on three topics:

- Criminal Records Checks for Candidates;
- Special Ballots; and
- Strengthening Enforcement

This report is the result of the research and identifies additional recommendations by the Standing Committee to the Members of the Legislative Assembly.

CRIMINAL RECORDS CHECKS FOR CANDIDATES

The Standing Committee members reviewed and considered a legal opinion from the Department of Justice on whether or not persons found guilty of an indictable offense or those with criminal records, could be barred from being candidates in a territorial election. It was determined that such a ban would violate Section 3 of the Canadian Charter of Rights and Freedoms, which guarantees all citizens the right to vote and to run for office, without restrictions on these rights.

The Standing Committee members have directed the Law Clerk and Research Services to examine options for a voluntary disclosure related to criminal convictions, for all candidates. That information will be made available to all Members for consideration.

SPECIAL BALLOTS

Further to Recommendations 16 and 25 contained in Committee Report 4-16(3), the Standing Committee further reviewed the provisions to simplify the process

for the use of special ballots, making it more efficient and more likely to attract the participation of Northern voters. The members of the Standing Committee considered the establishment of a new electoral official – the Special Ballots Officer. This Officer would be responsible for distributing and accepting all special ballots, for counting special ballots on polling day and communicating the count to the Returning Officers. In addition, this position would also have the authority to run mobile / advance polls. It is thought that this centralized service will result in faster turnaround of ballots by mail, could be established sooner and would be more efficient.

The Committee agreed that the Chief Electoral Officer should be given the authority to use e-mail and internet technologies for the distribution of special ballots, when the CEO is confident that the technology is secure enough for use.

In addition, the Special Ballots Officer would be authorized to operate Advance Special Mobile polls for people who want to vote by special ballot, such as mobile polls at the mine sites or at NWT college campuses.

Special Ballot Mobile polls may be easier to deliver in our multi-electoral district setting than a regular mobile poll, as the Officer does not need 19 ballot boxes and 19 different ballots. Polls could be held on both polling day and in advance of polling day and would be limited to people who are not resident in their home community at the time of the special poll. The poll locations would be established by regulation. The counting of ballots may not be able to include candidate's agents; however, two "electors" could be identified and included as witnesses. Returning Officers would no longer be responsible for special ballots. The NWT Elections office would incur new travel costs for any special ballot polls.

The Special Ballots Officer would only have jurisdiction in the NWT.

Recommendation 1

That the *Elections and Plebiscites Act* be amended to establish a Special Ballots Officer that would be responsible for special ballots and would possess the authority to hold advance mobile and polling day polls for voters not resident in their home community on polling day and at locations identified in the regulations.

Recommendation 2

That the *Elections and Plebiscites Act* be amended to give the Special Ballots Officer the authority to use e-mail and internet technologies for the distribution of special ballots, when the Chief Electoral Officer is confident that the technology is secure enough for use.

IMPROVING ENFORCEMENT

The current categorization of many of the offences listed in the *Elections and Plebiscites Act* could be changed to allow them to be prosecuted using a “strict liability” standard. A strict liability offence is one where a person is liable for the damage even if there is no negligence or fault. With a strict liability offence, the person charged has the ability to raise a defence of due diligence (meaning, they have done all that was reasonably possible in the circumstances to avoid the offence).

Offences now considered to be “campaigning” offences could become summary conviction offences, allowing the offender to be “ticketed” under the *Summary Convictions Procedures Act*, and thereby simplifying the prosecution process.

Further, additional amendments to the *Act* should be made to allow the Chief Electoral Officer to:

- enter into Compliance Agreements;
- issue Compliance Orders; and
- issue formal cautions.

Another amendment would allow late fees to be imposed on late filers of elections expenses reporting.

All of these mechanisms would increase the variety of enforcement and prevention measures available to the Chief Electoral Officer.

Recommendation 3

That the *Elections and Plebiscites Act* be amended to change the *Act* to allow as many offences as possible to be prosecuted using a strict liability standard and as many offences as possible to be prosecuted under the *Summary Convictions Procedures Act*.

Recommendation 4

That the *Elections and Plebiscites Act* be amended to give the Chief Electoral Officer the power to enter into Compliance Agreements, issue Compliance Orders and issue formal cautions.

Recommendation 5

That the *Elections and Plebiscites Act* be amended so that late fees could be imposed on late filers of elections expenses reporting.

CONCLUSION

This concludes the Committee's Auxiliary Report. It is hoped that the recommendations included in this report will support the Legislative Assembly in its desire to continually improve the processes used to administer territorial elections.