

TO: CHIEF ADMINISTRATIVE OFFICER **DATE:** 2022 Nov 08

FROM: GENERAL MANAGER CORPORATE SERVICES

SUBJECT: PROPOSED LEGISLATIVE CHANGES FOR 2026 LOCAL GOVERNMENT ELECTION

PURPOSE: To outline proposed amendments to the *Employment Standards Act* as it pertains to temporary election workers.

RECOMMENDATIONS:

1. **THAT** Council, through the Union of BC Municipalities, request the Provincial Government provide to local governments, an exemption from Part 4 (Hours of Work and Overtime) of the *Employment Standards Act*, except section 39 which refers to excessive hours of work, as it would relate to temporary election workers during local government elections and by-elections.
2. **THAT** the Provincial Government be requested to enact the proposed legislated exemption prior to January 2026.

REPORT**1.0 INTRODUCTION**

In 2022, City staff were advised there is no exemption under the *Employment Standards Act* for temporary election workers hired to work on advance and general voting days. In order to comply with the *Employment Standards Act*, the City was required to amend the pay scale for election workers, provide overtime, vacation pay, mileage, and set meal breaks (one for every 5 hours worked). The City also followed best practices and provided fixed-term offer of employment letters to 500 election workers to make sure that employees were aware of the terms and conditions of their employment.

Fortunately, the City of Burnaby was able to accommodate these requirements within the salary scale adopted by Council. However, the additional work this required from People and Culture, Finance and the Election Office was time consuming, cumbersome and resulted in additional costs to the City.

Given the Provincial Government has an exemption from Part 4 of the *Employment Standards Act* relating to hours of work and overtime and is therefore not required to meet

To: CHIEF ADMINISTRATIVE OFFICER
From: General Manager Corporate Services
Re: Proposed Legislative Changes for 2026 Local
Government Election

2022 Dec 12..... Page 2

these legislative requirements for temporary election workers, it stands to reason local governments should be provided with the same consideration.

The Provincial exemption is established by section 35.1 of the *Employment Standards Regulation*, which exempts temporary Provincial election workers from the hours of work and overtime requirements, with the exception of protection against excessive hours, under the *Employment Standards Act*. The interpretation of this exemption, as provided by the Province, states:

“Voting officers and their assistants who work at advance polls and at voting stations on election day, and voter registration officials (enumerators) who work on a temporary basis before an election are excluded from the hours of work and overtime provisions of the Act, with the exception of s. 39, which provides protection against working excessive hours detrimental to the employee’s health or safety.”

2.0 DISCUSSION

As previously noted in the report, in early 2022 the Election Office was made aware local governments are required to meet provisions of the *Employment Standards Act* in relation to election workers. This was not something any local governments had considered given the manner in which election salaries have traditionally been created.

Complying with the *Employment Standards Act* meant the rate of pay and overtime provisions of the *Employment Standards Act* applied to election workers, and also established the need for 4% vacation pay, paid meal breaks (30 minute break per 5 hours worked), mileage and offer letters which election workers had to accept in order to be employed.

Adhering to the *Employment Standards Act* created a particularly onerous and complex process given employment meant creating 500 offer letters, each five to seven pages in length, initialled and signed by all parties, for a work assignment which amounted to one to three training sessions and two to three days of work, depending upon the assigned role and assigned shifts. The rate of turnover due to illness and personal issues was such that offer letters were being created and retracted at a steady rate right up to General Voting Day.

The Election Office worked with People and Culture and Finance to ensure the City met all legislated requirements for hourly wages, overtime, vacation pay, mileage, paid meal breaks and all deductions such as income tax, employment insurance and CPP.

The implementation of two shifts on advance voting days had the unforeseen benefit of mitigating the impact of paid meal breaks on those days.

While income tax and other deductions were implemented by the City many years ago, the requirements of the *Employment Standards Act* were not considered applicable given the short-term nature of the work.

To: CHIEF ADMINISTRATIVE OFFICER
From: General Manager Corporate Services
Re: Proposed Legislative Changes for 2026 Local
Government Election

2022 Dec 12 Page 3

The City of Burnaby has always been diligent about ensuring election workers are paid a competitive wage, understanding experienced election workers are in high demand and better rates of pay are often a deciding factor in accepting employment. Because of this staff were able to adhere to the *Employment Standards Act* within the salary scale approved by Council.

At the same time staff were working to adhere to legislated requirements, it was brought to our attention the Provincial Government is exempt from the provisions of the *Employment Standard Act* when it comes to election workers.

Elections whether local, provincial or federal are a huge undertaking in a compressed period of time. Costs have grown year over year, technology has changed the way we conduct elections, which changes the skills and abilities required of election workers. Pay rates are necessarily competitive as local governments work to recruit experienced, computer literate employees interested in very short term employment. This will not change in the foreseeable future.

Adhering to the *Employment Standards Act* adds a level of complexity to the process which is both time consuming and costly. Given all levels of government undertake elections, and the financial resources available vary across the spectrum of size and tax bases, it makes sense to provide the same level playing field to local governments as provided to the Provincial Government.

3.0 RECOMMENDATION

As a result staff recommend Council, with the support of other local governments through the UBCM, request the Provincial Government to provide an exemption from Part 4 (Hours of Work and Overtime) of the *Employment Standards Act* for temporary local government election workers.



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