



City of Richmond

Report to Committee

To: General Purposes Committee

Date: November 8, 2017

From: David Weber
Director, City Clerk's Office

File: 12-8125-80-01/Vol 01

Re: Amendments to Local Election Campaign Financing Legislation

Staff Recommendation

That the staff report dated November 8, 2017, titled "Amendments to Local Election Campaign Financing Legislation" from the Director, City Clerk's Office, be received for information.

David Weber
Director, City Clerk's Office
(604-276-4098)

Att. 1

REPORT CONCURRENCE	
CONCURRENCE OF GENERAL MANAGER 	
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS:
APPROVED BY CAO 	

Staff Report

Origin

Since the last civic election in 2014, the *Local Elections Campaign Financing Act* (LECFA) was amended and further legislative amendments were recently introduced in the BC Provincial Legislature. The purpose of this report is to generally describe the changes that were enacted in May 2016 concerning expense limits and to describe the key elements of the proposed changes that were introduced under Bill 15, the *Local Elections Campaign Financing Amendment Act, 2017*. These latest proposed changes focus primarily on contribution limits and other restrictions on campaign contributions.

This report supports Council's 2014-2018 Term Goal #9 A Well-Informed Citizenry:

Continue to develop and provide programs and services that ensure the Richmond community is well-informed and engaged on City business and decision making.

9.1. *Understandable, timely, easily accessible public communication.*

9.2. *Effective engagement strategies and tools.*

Analysis

Jurisdiction

Starting with the 2014 local civic elections, campaign financing came under the direct jurisdiction of Elections BC. Accordingly, all campaign financing disclosures for the 2014 election were filed directly with the Provincial body and are currently available in a searchable central database through the Elections BC website. Prior to 2014, campaign financing disclosures were filed locally with each jurisdiction's local Chief Election Officer and made publicly available through local municipal offices and websites.

In addition to their regulatory role, Elections BC also plays an advisory role with regard to specific local election campaign financing concerns and questions and their Compliance Officers are available for consultation through a local elections campaign financing toll-free telephone number. Potential candidates and interested parties need to contact Elections BC directly should they have any specific questions about campaign financing, disclosure documents or how the proposed changes will impact their disclosures.

Campaign Financing Expense Limits - 2016

In May 2016, following public and stakeholder consultations, the Provincial Government enacted legislation that places limits on local government election expenses. The specifics of these rules are provided in the *Local Elections Campaign Financing Act* and the *Local Elections*

Campaign Financing Expense Limit Regulation which can also be found on the Elections BC website along with a number of forms and related guides.¹

Generally speaking, the Act and Regulations establish expense limits for the “campaign period” (which is defined as the 28-day period prior to General Voting Day) based on a per capita formula. For jurisdictions under 10,000 in population, a flat rate applies of \$10,000 for mayoral candidates and \$5,000 for all other candidates.

For jurisdictions over 10,000 in population, including Richmond, Mayoral candidates would have an expense limit of:

- \$1 per capita for the first 15,000 population;
- \$0.55 per capita for the next 15,000 to 150,000 population;
- \$0.60 per capita for the next 150,000 to 250,000 population; and
- \$0.15 per capita thereafter.

All other candidates in jurisdictions over 10,000 in population would have an expense limit of:

- \$0.50 per capita for the first 15,000 population;
- \$0.28 per capita for the next 15,000 to 150,000 population;
- \$0.30 per capita for the next 150,000 to 250,000 population; and
- \$0.08 per capita thereafter.

The population of Richmond is 198,309 according to the most recent official census data figures from May 2016. Using this population figure and the above formulas, the expense limit for the campaign period for a Mayoral candidate in Richmond would be \$118,235. Candidates for the positions of Councillor and School Trustee in Richmond would have a campaign period expense limit of approximately half that amount, or \$59,792.

The expense limit calculations provided above are for the purposes of illustration only and are not official. According to regulation, the specific application of the formula per jurisdiction and the official expense limits based on census data will be determined by Elections BC and announced publicly no later than May 31, 2018. Expense limits would be adjusted in future for inflation and for changes in population over time.

Proposed Amendments to Campaign Financing Contribution Limits - 2017

Over the last several years, there has been public debate and calls by various parties for further legislative changes to restrict campaign contributions at the local government level. At the September 2017 UBCM convention, the issue of campaign financing and restrictions on donations was specifically debated, resulting in the following resolution being endorsed:

¹ While the most current legislation and regulations are available on the Elections BC website, as of the date of this report, many of the campaign financing guides and forms have not yet been updated to reflect the legislative amendments enacted in 2016. Elections BC staff have indicated that these materials will be updated as soon as possible in advance of the 2018 local elections.

Therefore be it resolved that as the provincial government makes changes to provincial campaign finance regulations to limit and restrict campaign donations, the Province also implement reforms to campaign finance regulations for local government, in consultation with UBCM.

On October 30, 2017, the Provincial Government introduced legislation and announced a new set of local level campaign financing reforms. A government backgrounder on *Bill 15 – the 2017 Local Elections Campaign Financing Amendment Act* is attached (Attachment 1).

The key elements of the proposed legislative changes are as follows:

Sources of campaign contributions:

- Campaign contributions from corporations, unions or other organizations are prohibited.
- Campaign contributions can only be made by an “eligible individual” which is defined as an individual who is a Canadian citizen or permanent resident and who is also a BC resident.
- Indirect donations are prohibited, meaning that a corporation, union or other organization, or an ineligible individual, must not provide money or a non-monetary contribution to an eligible individual for the purpose of making a campaign contribution or as consideration for an eligible individual to make a campaign contribution.
- Anonymous contributions over \$50 are prohibited; anonymous contributions of \$50 or less must be from eligible individuals, in other words, corporations, unions or other organizations, or ineligible individuals commit an offence if they make anonymous contributions of any amount.

Campaign Contribution Limits

- Campaign contributions (donations) are capped at \$1,200 per eligible donor per year towards the election campaign of a candidate or towards the election campaign of an elector organization and all of its endorsed candidates. In other words, for donations to slates, one donor’s total contribution to the group as a whole cannot exceed \$1,200 per year.
- From a jurisdictional perspective, a Board of Education/School Trustee election is considered to be a separate election from a Local Government/City Council election, even though the two elections are typically administered and conducted in parallel with each other. Accordingly, an Elector Organization that endorses candidates for positions on a City Council and a School Board is considered for the purposes of the *Local Elections Campaign Financing Act* (LECFA) to be running two separate election campaigns - a municipal election campaign and a board of education campaign. This has several implications with regard to campaign financing and contribution limits, specifically:
 - (1) Elector Organizations are required to file separate disclosures for their municipal campaign and their board of education campaign.
 - (2) Separate campaign accounts are required for each campaign.

- (3) Funds cannot be transferred between the two campaigns.
- (4) When accepting campaign contributions, funds must be designated for either the municipal campaign or the board of education campaign and deposited in the appropriate accounts.
- (5) Each campaign (municipal and board of education) would be eligible to receive a contribution from an eligible individual of up to \$1,200 per year for 2017 and 2018.
- Money provided by a candidate for use in the candidate's own campaign is considered to be a campaign contribution and is also subject to the contribution limit of \$1,200 per year (however, this does not apply to non-monetary property or services provided by a candidate for the candidate's own campaign). Previously, there would have been no monetary limit on the amount a candidate could fund their own election campaign.
- Contribution limits for 2019 and later may be adjusted for inflation by regulation.

Elector Organizations and Endorsed Candidates

- Elector Organizations will not have their own campaign period expense limits. Endorsed candidates must assign a portion of their campaign period expense limits to their Elector Organization to be spent on their behalf. This assignment must be formalized through a "campaign financing arrangement" before the beginning of the campaign period (28 days prior to General Voting Day). A campaign financing arrangement may be amended up to 3 days before General Voting Day to adjust the expense limit amount that the candidate has assigned to the Elector Organization.
- Elector organizations must show in their disclosures how all campaign period expenses were spent vis-à-vis each specific endorsed candidate and these expense amounts should correspond to the amounts assigned by each endorsed candidate. In other words, it is not appropriate for one or more endorsed candidates to assign a portion of their expense limits to their Elector Organization and then have the Elector Organization spend that total amount disproportionately among the endorsed candidates.
- Surplus campaign funds over \$500 of independent candidates must be provided to the local jurisdiction to be held in trust for that candidate's use in the next election; surplus campaign funds of Elector Organizations regardless of the amount are provided to the elector organization to be used as they determine.

Fundraising Functions

- Under the legislation as it currently stands, if a corporation or organization buys one or more tickets to a fundraising function, the entire amount is considered to be a campaign contribution. Under the proposed changes, corporations or organizations may no longer purchase tickets to fundraising functions since contributions from those sources will be prohibited. Only eligible individuals may purchase tickets to fundraising functions.
- Under the legislation as it currently stands, the following rules apply to the purchase of tickets to fundraising functions by individuals:
 - If an individual purchases a ticket to a fundraising function and the price of the ticket is over \$50, then the whole amount is a campaign contribution.

- If an individual purchases a ticket to a fundraising function and the price of the ticket is \$50 or less, then it is not considered to be a campaign contribution.
- If the price of a fundraising function ticket is \$50 or less and an individual purchases \$250 worth of tickets or less, then that amount is also not considered to be a campaign contribution.
- If the price of a fundraising function ticket is \$50 or less and an individual purchases more than \$250 worth of tickets, then the whole amount is a campaign contribution.

Two significant changes to these rules are proposed under the new Bill:

- (1) Only eligible individuals, as defined by the Act, may purchase fundraising function tickets.
- (2) The \$250 threshold described above will be lowered to \$50, meaning that if an eligible individual purchases more than \$50 worth of tickets for a fundraising function, then the whole amount is a campaign contribution. Previously, an individual would have to purchase more than \$250 worth of tickets in order for the amount to be considered a campaign contribution.

Third-Party Advertisers

- Third-party advertisers must also observe expense limits. For Richmond, the directed advertising limit would be 5% of the mayoral limit (approximately \$5,900 given the previously cited population figures).

Application and Retroactivity

- The proposed legislation will apply to all elections and by-elections starting with the 2018 general local elections.
- Once enacted, the changes will apply retroactively to October 31, 2017, meaning that any contributions received prior to that date under the previous rules may be used for the 2018 election and any contributions received on or after October 31, 2017 will be subject to the new legislation.

Bill 15 was introduced and given first reading in the Provincial legislature on October 30, 2017 and second reading on November 8, 2017. It is anticipated that the Bill will progress through the legislative process and be enacted in time for the 2018 General Local and School Elections. Prior to enactment, amendments to the proposed Bill are still possible. City Council, or any interested party, would be able to provide their comment or input on the proposed amendments by sending a letter to the BC Minister of Municipal Affairs and Housing, with a copy to UBCM.

Financial Impact

None.

Conclusion

Local election campaign financing regulations have gone through significant changes since the last civic election cycle and further changes are being considered by the Provincial Government

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at this time. The proposed changes will affect political candidates, elector organizations, third-party advertisers and any other participants in the civic political election process. If Council or any other interested party wishes to convey comments to the Provincial Government about the Bill prior to enactment, these can be conveyed to the Minister as appropriate.

A handwritten signature in black ink that reads "David Weber". The signature is written in a cursive style with a large, stylized initial 'D'.

David Weber
Director, City Clerk's Office
(604-276-4098)

Att. 1: Provincial Government News Release and Backgrounder on *Bill 15 – The Local Elections Campaign Financing Act, 2017*

British Columbia News

Local election reforms take big money out of politics

<https://news.gov.bc.ca/15744>

Monday, October 30, 2017 2:47 PM

Victoria - Campaign finance reforms announced today by the British Columbia government will limit the influence of big money on local elections, putting people at the centre of community politics and decisions.

“With this legislation, people can be confident that their local and provincial governments will be working for all voters, not just those able to write the largest cheques,” said Selina Robinson, Minister of Municipal Affairs and Housing. “Our government has already taken action to get big money out of politics at the provincial level. These amendments will make sure that democracy at the local level works for everyone, not just a select few.”

The legislation would ban corporate and union donations, put limits on individual contributions and ban out-of-province donations at the local level.

Contributions for the election campaign of a candidate or elector organization will be limited to \$1,200 per donor per year. One donor’s total contributions to the election campaign for an elector organization and all of its endorsed candidates cannot exceed this amount. These changes follow the approach of the proposed provincial Election Amendment Act.

“B.C. local governments have been asking for a ban on corporate and union donations and a cap on contributions to local election campaigns since 2015,” said Wendy Booth, Union of British Columbia Municipalities (UBCM) president. “We reaffirmed this request just last month, and appreciate the commitment demonstrated by Minister Robinson to address this issue. The proposed changes will support fairness during campaigns and make running for office more accessible by strengthening the rules for local elections.”

The proposed amendments to the Local Elections Campaign Financing Act follow consultations with key stakeholders such as Elections BC and UBCM, which represents B.C.’s 189 local governments and the Islands Trust.

“Elected officials have the privilege and responsibility of representing their citizens, and this legislation helps ensure that campaigning for public office is conducted fairly,” said Nils Jensen, mayor of Oak Bay. “The District of Oak Bay has strongly advocated for local elections campaign financing reform. We appreciate Minister Robinson bringing this forward in such a timely fashion. It’s clearly in the best interest of candidates and the public—and it’s the right thing to do.”

The amendments will apply to all local elections starting with the 2018 general local elections and any byelections thereafter, including campaigns for councillors, mayors, electoral area directors and school trustees.

Once passed, the changes will be retroactive to Oct. 31, 2017, the day after the first reading of the legislation. To allow candidates to transition to the new campaign financing framework, contributions allowed under the former rules and received before Oct. 31, 2017, may be used for the 2018 general local elections.

Quick Facts:

- An elector organization in local elections is an organization that endorses candidates in a local election. Elector organizations are often referred to as civic political parties.
- The Local Elections Campaign Financing Act was amended in 2016 to implement expense limits for local elections. These amendments will also come into effect for the 2018 general local elections.

Learn More:

Local Elections Campaign Financing Act: <http://www.bclaws.ca/civix/document/id/complete/statreg/14018>

Election Amendment Act, 2017: <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/2nd-session/bills/first-reading/gov03-1>

A backgrounder follows.

Contacts

Ministry of Municipal Affairs and Housing
Media Relations
250 952-0617

Backgrounders

Local Elections Campaign Financing Act amendments

Contributions by individuals (applies to the 2018 general local elections and beyond):

- Restricted to individuals who are residents of British Columbia and who are Canadian citizens or permanent residents.
- Contribution limits are set at \$1,200 for the election campaign of a candidate or elector organization per donor per year. This means that one donor's total contributions to the election campaign for an elector organization and all of its endorsed candidates cannot exceed \$1,200 per year.
- These contribution limits will apply provincewide for the 2018 general local elections.

Union and corporate contributions (applies to the 2018 general local elections and beyond):

- Donations from any corporation, union or other organization to local candidates, elector organizations, third-party advertisers, and assent voting advertisers are prohibited.

Loans (applies to the 2018 general local elections and beyond):

- Loans to candidates, elector organizations, third-party sponsors, and assent-voting advertising sponsors must be from a savings institution at not less than prime rate or from an eligible individual (eligible individuals are those persons who may make contributions). "Assent voting" is generally voting on a bylaw or other matter for which a local government is required to obtain the assent of the electors. Assent voting may also be referred to as a "referendum", but not all referenda are assent voting.
- The amount of a loan provided by an eligible individual to a candidate or elector organization would count toward the contribution limit and therefore cannot exceed \$1,200 per year.

Election advertising sponsors:

- An election advertising sponsor (generally known as a third-party advertiser) is an individual or organization that sponsors election advertising independently of a candidate or elector organization. Third-party advertisers must register with Elections BC, and record and disclose information about contributions and expenditures related to election advertising.
- The legislation will amend the Local Elections Campaign Financing Act with the intention of ensuring that small-scale advertising and individual self-expression (for example, people who put up home-made signs) are not subject to these third-party advertiser rules.
- The amendment ensures the treatment of third-party advertisers in the Local Elections Campaign Financing Act is consistent with the provincial Election Act and is in response to a recent Supreme

Court of Canada decision.

School trustees (applies to the 2018 general local elections and beyond):

- Board of education trustees are elected as part of general local elections.
- This legislation will apply to candidates for school trustee, just as it does for other candidates seeking locally elected office.

Implementation:

- These changes will be in place for the October 2018 general local elections and beyond.
- Once this legislation is passed, the new rules will be applied retroactively to Oct. 31, 2017, the day after the first reading of the bill.
- To allow candidates to transition to the new campaign financing framework, contributions allowed under the former rules and received before Oct. 31, 2017, may be used for the 2018 general local elections and are not limited to \$1,200.
- However, contributions received on or after Oct. 31, 2017, will be subject to the new rules and are limited to \$1,200.
- If a candidate, elector organization or third-party advertiser becomes aware that they have received a contribution on or after Oct. 31, 2017, that contravenes the new rules, they will have to return that contribution.

Election expense limits (based on 2016 amendments to the Local Elections Campaign Financing Act):

- The 2016 amendments to the Local Elections Campaign Financing Act put in place expense limits for candidates, elector organizations and third-party advertisers. (see details below)
- The cap on expenses follows a consistent formula for all candidates and is generally based on the population of an election area.
- As legislation around expense limits for local elections has already been passed, these changes will be in effect for the 2018 general local elections as well.
- Candidates will need to follow the rules guiding expense limits and, as of Oct. 31, 2017, will need to follow the rules on contribution limits as well.

Expense limits for candidates:

- In communities with a population of fewer than 10,000 people, the expense limit will be \$10,000 for mayoral candidates and \$5,000 for all other candidates.
- In communities with a population of 10,000 or more, expense limits will be determined using a per-capita formula to recognize that the size of the community can affect a candidate's campaign costs.

Expense limits for elector organizations:

- An elector organization will not have its own expense limit. Instead, endorsed candidates will sign over a portion of their expense limit for the elector organization to spend during the campaign period via a campaign financing arrangement (CFA). This approach is to ensure neutrality between endorsed and independent candidates.
- Elector organizations will be required to attribute campaign period expenses to each endorsed candidate.

Expense limits for third-party advertising:

- Under the third-party advertising framework, expense limits will apply to both directed advertising and issue advertising:
 - The limit for directed advertising will be the following:

CNCL - 456

- In a community that has a population of fewer than 15,000 people, the directed advertising limit is \$750.
- In a community that has a population of 15,000 people or more, the directed advertising limit will generally be 5% of the mayoral candidate (or candidate) expense limit in the corresponding election area.
- The limit for issue advertising is not easily tied to a specific election area and will be subject to a separate, overall limit of \$150,000.
 - This overall limit will also act as the maximum amount that a third-party advertiser can spend in total (e.g., directed advertising and issue advertising must not exceed \$150,000).

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