



Local Government Election Reform

**Submission from the BC Division of the
Canadian Union of Public Employees**

To the Local Government Elections Task Force

March 25, 2010

Introduction

The Canadian Union of Public Employees (CUPE) appreciates the opportunity to present our views on Local Government Elections to the appointed Task Force.

We are uniquely situated to comment on the manner in which civic elections are conducted in British Columbia, as we represent most of the workers employed by the various local governments and boards elected through those elections and our members have played an active role in those election campaigns for decades.

CUPE: who we are

The BC Division of CUPE represents approximately 80,000 workers in the province. Roughly two-thirds of these people work in the school board and local government sectors. In our municipalities and regional districts, we provide a very broad range of services covering everything from information technology to recreation to waste management. In school boards, among other things, we provide clerical, technical and custodial services. We work directly with children in the classrooms beside teachers as Education Assistants. We also represent thousands of workers in public libraries across the province.

This describes who CUPE members are in their local government work places, but it is not a complete picture. CUPE members live in every community in this province. Our members are volunteers in our community agencies. We coach local baseball and hockey. We belong to local choirs and theatre companies. Our wages go to support local businesses. And CUPE members vote in local government elections. We believe that CUPE members are very much a part of the heart of our communities.

Summary of approach

To provide a background explanation of the positions we have taken on the topics before the Local Government Elections Task Force, we have chosen to focus on measures that will improve fairness in civic elections, as well as improve accountability and transparency. We used as our primary influence the rules currently in place for provincial elections in British Columbia.

CUPE believes it would be inappropriate and politically problematic for the BC government to enact rules for civic elections that are substantially different from those that govern provincial elections. This applies to the eligibility to vote, spending and contribution limits, public financing, as well as transparency, accountability and enforcement measures.

In reaching this determination, we have looked to provinces where significant changes to legislation governing local government elections have been made in recent years. It is important to note there are substantial similarities between rules for civic and provincial elections in these provinces – spending and contribution rules are similar, as are the rules governing eligibility to vote. For example, if contribution bans for corporations and unions are in place at the provincial level (as in Manitoba) the same restrictions have been applied to civic elections. In Ontario, where those contribution restrictions are not in place at the provincial level they likewise have not been enacted for local government elections.

For years, voter turnout for local government elections in BC has been far below participation in elections at the provincial and federal levels, despite the view of many that decisions made at the local level are far closer and more relevant to our day-to-day lives. Hopefully the changes recommended by the Local Government Elections Task Force will help to improve democratic participation in civic elections.

Corporate Vote

The Canadian Union of Public Employees is strongly opposed to permitting corporations to vote in local government elections.

In considering this idea, it is important to first be clear about what a corporation is and what it is not.

A corporation is not a human being.

While legal rulings have given corporations some of the “powers of a natural person”, a corporation is not a person. A corporation is a legal construct that permits one or several people to conduct business within certain legal parameters. This may seem obvious, but it is a crucial distinction.

Democracy is a system by which individual citizens govern themselves. Corporations are not citizens.

Some who are advocating the corporate vote have suggested there should be one vote for every business license issued in a community. This is problematic for several reasons. First, it might allow local residents who own very small businesses or sole proprietorships to vote more than once – they would be entitled to vote once as individual electors and a second time on behalf of their business license. This is unfair to all other electors who are only permitted to vote once, giving extra influence over elections to some citizens rather than others.

Additionally, it is relatively easy to obtain a business license. Citizens who wish to vote more than once, or wish to vote in a municipality in which they do not reside, will find it quite simple to register a sole proprietorship and obtain the license they need to be able to cast a second, or even a third, ballot.

The principle of “one person, one vote” is a longstanding cornerstone of our democracy. The proposal for corporate voting would put that principle at serious risk.

Those who advocate the corporate vote base their views on the fact that businesses pay property taxes. Of course, there is much more to the definition of citizenship than whether or not taxes are paid. Many citizens who do not pay property taxes (such as renters) do vote in local government elections. The criteria for the right to vote has not been based on whether or not one owns property (or whether one pays taxes) for many decades. A return to that criterion would be a major step backward for the principles of democracy in BC.

If one assumes paying property taxes should be the basis of the right to vote, what about the many other non-profit corporate entities that are not human beings but which also pay property taxes? For example, trade unions and some non-profit societies that own property also pay property taxes. Even the land surrounding a church, but owned by the church, may be taxed. To be consistent, those favouring the corporate vote should also support trade unions and churches being able to vote in local government elections, though we suspect advocates of the corporate vote would not take such a position. Certainly, CUPE is not calling for trade unions to have the right to vote simply because we pay taxes on property we own.

Corporations also pay taxes at both the provincial and federal level, but there is no proposal to give corporations the right to vote provincially or federally simply because they pay those taxes – nor should there be. CUPE has serious concerns that, should corporations be given the right to vote municipally, there will be a serious inconsistency and aberration with our provincial electoral system.

CUPE also has serious concerns about the implications of the corporate vote as it relates to our trade agreements. As the discussion paper noted, the “non-discrimination” provisions of both the North American Free Trade Agreement (NAFTA) and the Trade, Investment and Labour Mobility Agreement (TILMA) may mean that if the right to vote is provided to BC-based corporations, it will not be possible to deny that franchise to corporations operating in BC that are based in another country (in the case of NAFTA) or in Alberta (in the case of TILMA). This is a sobering prospect. We very much doubt that British Columbians will favour a proposal to enable foreign-based entities or citizens of another province to have the right to vote in BC elections.

While not raised in the discussion paper, there is the logical inconsistency of permitting corporations to vote without also letting them run as candidates for election. The foundation of electoral candidacy is that electors can put their names forward for office. If corporations have the right to vote, is it also proposed that corporations should be able to stand for election for Mayor or Council? Presumably not, but those who favour corporate voting have not been discussing some potential consequences of that sort.

In deliberating on this matter, the Task Force should consider seriously that there is currently only one place in the world where corporations are permitted to vote – the City of London Corporation. It is important to note that the City of London Corporation is not what most people understand to be “London, England.” Rather, “the City” represents the tiny “square mile” within greater London (near St. Paul’s Cathedral) which is home to much of the British financial industry. It is a “city” quite unlike any in BC, with roughly 9,000 residents and 340,000 workers on any given day.

The rules for voting in “the City” reflect the values of a very different era. Corporations based there are given a certain number of votes based on the number of workers that they employ. In 2009, the number of non-residential votes provided to corporations greatly exceeded the number of residential votes. There were 24,000 votes allocated to corporations compared to only 8,000 votes provided to residential voters.

Corporations in BC are not without influence, both at the local level as well as provincially. They are active in making their opinions known and policy makers take their views on public policy issues very seriously. This should be sufficient. If corporations are given the right to vote as well, it will seriously skew and create difficulty for our local government electoral system.

While corporations formerly had the ability to vote in some jurisdictions, including BC, this has been systematically eliminated as democratic systems have evolved and matured. Presumably, the corporate vote has been phased out everywhere because of the widespread and common-sense understanding that electoral democracy is a method by which individual citizens make decisions about their government.

Given that it has been eliminated nearly everywhere else, it is clear to us that BC should not retreat into the past by reinstating the corporate vote.

Campaign spending limits

Similar to the restrictions in place for candidates in provincial elections, we believe there should be limits on campaign spending by candidates in local government elections.

Much has been made in the media, especially following the 2008 civic election campaigns, of significant spending by candidates in some jurisdictions. Such stories add to the general cynicism and distrust of politicians among the electorate, and do nothing to encourage democratic participation.

Limits on campaign spending by candidates will help to level the playing field and make participating as a candidate more accessible to a broader range of people. Participation of candidates is a sign of a healthy democratic system, and it is worth noting that in 2008 25 per cent of all mayoral candidates and 50 per cent of electoral area directors were acclaimed.

Determining the method by which to establish spending limits could be difficult, as there are significant differences in our communities. However the formulas in place in Ontario and Quebec (a flat dollar amount plus cents per elector) apply to all local governments in those provinces, and there are arguably as many differences in their communities as exist in ours. There is no reason why this approach should not work in BC.

The approach taken by Manitoba, where local governments are required to establish their own limits, could also work in BC – provided there was some basic framework and principles in place for the bylaws that would ensure consistency and assist smaller communities in establishing fair and appropriate rules. For example, to ensure fairness candidates should be required to include in their spending limit the cost of all material and resources used in a campaign regardless of their source (e.g. donated or purchased in a previous campaign).

Campaign contribution limits

Because there are no limits on how much can be contributed to candidates in provincial elections in BC, we believe it would be inappropriate for the province to place such restrictions

on local government elections unless and until they are bound by those same restrictions. The same reasoning applies to banning corporate and union donations.

Instead, changes made in regards to campaign contributions should be aimed at improving transparency and accountability for the electorate. These changes could include banning anonymous donations, and reducing or eliminating the amount that can be accepted in cash. Both anonymous and cash donations are barriers to true transparency and increase distrust among the electorate. As per the City of Vancouver resolution to the 2009 UBCM convention, donations from sources outside of Canada will also serve to reduce voter cynicism.

Although it is outside of the purview of the Task Force, these changes could also easily be made to provincial election rules to ensure consistency.

Public Financing

In order to ensure continued fairness and accessibility to municipal elections for a broad scope of candidates, consideration should be given to meaningful public financing in the form of both tax credits for contributors as well as rebates for a portion of campaign expenses incurred by candidates. Such measures could also serve to increase the participation of the electorate in civic election campaigns.

As endorsed by the UBCM, provincial tax credits should be available for those who make campaign contributions to candidates in local elections, similar to the tax credits available for donations made to candidates in a provincial election. This is also similar to what is done in the province of Quebec for civic elections.

Local governments could be given the right to introduce bylaws, similar to what exists in Manitoba, to establish programs to reimburse a portion of eligible candidate expenses. These programs are another way to increase accessibility to the electoral process for candidates.

The introduction of tax credits for donors and expense rebates for candidates will be especially important for the democratic process if the Task Force recommends new contribution limits, as is being advocated by others.

Disclosure

There are a few specific measures in place at the provincial level that, if applied to local government elections, would significantly enhance the transparency and accountability of campaign financing.

Audits of campaign finances are not currently required for civic election candidates, regardless of the amount of money raised or spent. The provincial rule requiring audits where campaigns spend more \$10,000 or more should be applied to local government elections. This additional measure would increase the level of trust and integrity in the financing of the democratic process.

Annual financial reporting for political parties is required at the provincial level, both in BC and across Canada. However, no such requirement exists at the local level even though some

civic parties in BC are as sophisticated as small provincial parties. Consideration should be given to requiring annual reporting where electoral organizations or individual candidates raise or spend money outside of an election year or campaign period.

Accessibility to disclosure statements should also be improved. Currently, the only way to access them is at local government offices. Improving access to these statements, by ensuring remote electronic access and central filing through the province would increase both transparency and accountability and could serve to restore some level of trust and faith in campaign financing. This would be consistent with provincial practice.

Enforcement

Enforcement provisions for local government elections are sometimes unclear, and are certainly less rigorous than those at the provincial level. Because oversight of the elections process and any complaints arising is exercised by local governments and their staff, there is a perception of conflict of interest. There is also a very real concern about the level of resources and expertise available to investigate election-related complaints.

CUPE recommends that enforcement provisions for local government elections be revised to be substantially similar to those in the BC Elections Act.

Role of Elections BC

While the Ministry of Community and Rural Development provides a number of resources to local governments during the local government election process, it is clear that many communities struggle with appropriate enforcement of elections rules and securing compliance with campaign finance and disclosure requirements.

Elections BC, which has a limited role between provincial elections, should be given the authority to provide oversight of the local government elections process. Such authority should include providing training and advice to local elections officers as well as candidates, electoral organizations and campaign organizers and would ensure consistency in interpretations and applications of the rules.

Elections BC should also be provided with authority to enforce local government election legislation, including investigating public complaints related to possible violations and the right to independently initiate audits or investigations where it deems such an investigation to be in the public interest, similar to the powers it has under the BC Elections Act.

Currently, campaign organizers who participate in local government campaigns in a variety of jurisdictions must complete and file separate reports in each jurisdiction. In 2008, this created considerable confusion for some local election officers as well as the obvious additional workload. Elections BC should be authorized to receive the disclosure reports from campaign organizers who have participated in more than one local government jurisdiction

Conclusion

CUPE encourages the Local Government Elections Task Force to make the following recommendations regarding civic election reform in BC:

- The corporate vote should not be reinstated. The principle of “one person, one vote” is a longstanding cornerstone of our democracy. The reintroduction of the corporate vote would put that principle at serious risk and reverse the democratic progress we have made.
- The rules governing local government elections should not be substantially different from those that govern provincial elections in BC.
- Campaign spending limits should be instituted.
- To ensure consistency with provincial rules, there should not be limits placed on how much individuals or groups can contribute to candidates.
- Any changes to contribution rules should focus on measures to improve transparency, such as banning anonymous, cash and international donations.
- Audits should be required of local government campaigns that spend \$10,000 or more, as is done at the provincial level.
- Annual reporting should be required of electoral organizations and any individual candidates who raise or spend money outside of a formal campaign period.
- Accessibility of campaign finance disclosure statements should be improved by ensuring electronic access.
- Enforcement provisions should be brought into line with those contained in the BC Elections Act.
- Elections BC should be authorized to provide oversight of local government elections, including providing training and advice to local election officers and candidates. It should also be given authority to investigate complaints and enforce election rules.