



CHIEF ELECTORAL OFFICER'S REPORT TO THE LEGISLATIVE ASSEMBLY

**A SUMMARY OF ELECTORAL ACTIVITIES AND
PROPOSED ELECTIONS ACT AMENDMENTS**

November 26, 2019



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November 26, 2019

Honourable Nils Clarke
Speaker
Yukon Legislative Assembly
Whitehorse, Yukon Y1A 2C6

Dear Mr. Speaker,

REPORT TO THE LEGISLATIVE ASSEMBLY

In accordance with sections 317 and 318 of the *Elections Act*, I have the honour of submitting to you a report related to matters and amendments related to my duties as chief electoral officer.

This report brings to the attention of the Legislative Assembly a summary of electoral activities and recommendations for the amendment of the *Elections Act*. It is organized in three chapters; namely:

- Chapter One: An Overview of Electoral Activities
- Chapter Two: The Strategic Plan
- Chapter Three: Proposed Changes to the Elections Act

The first two chapters provide insight into the activities and objectives of Elections Yukon. It aims to provide additional background information on the ongoing readiness preparations for our mandate of electoral administration of territorial, school board, and school council elections. Elections Yukon has set a date of June 1, 2020 as the readiness date for a territorial election.

The third chapter contains ten recommendations related to the *Elections Act*. These select recommendations are submitted in consideration of a coming into force date prior to the next election. A more comprehensive submission of the *Elections Act* would be part of the chief electoral officer's report following the next general election.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Maxwell Harvey".

Maxwell Harvey
Chief Electoral Officer

cc: Dan Cable, Clerk of the Legislative Assembly



CHAPTER ONE

AN OVERVIEW OF ACTIVITIES

For Elections Yukon, the past 18 months has been one of transformation. Beyond the day-to-day overhead of electoral management, there have been a number of significant initiatives to renew processes and progress readiness. In particular, the ongoing projects to introduce the permanent register and amendments to the *Election Act* has been major highlights.

Elections Yukon delivers the administrative process that determines political power in the territory. In doing so, it provides the framework for two basic democratic rights guaranteed by the Canadian Charter of Rights and Freedoms: the right to vote and the right to be a candidate.

Elections are among the largest single activity organized in a country, province or territory. They are complex administrative and operational tasks implemented in a politically charged atmosphere. The election period is high profile, dynamic and receives the considerable scrutiny of diverse stakeholders.

Democracy: The word democracy has Greek origins. It combines two shorter words: 'demos' meaning whole citizen living within a particular city-state and 'kratos' meaning power or rule.



Democracy means rule by the people. The foundation of a democracy include guiding principles such as the rule of law, protected rights and freedoms, free and fair elections, and the accountability and transparency of government officials. Citizens have a responsibility to uphold and support these principles.

Electoral Management Body (EMB): An election is an instrument of democracy. EMBs, such as Elections Yukon, are organizations legally responsible for elections.

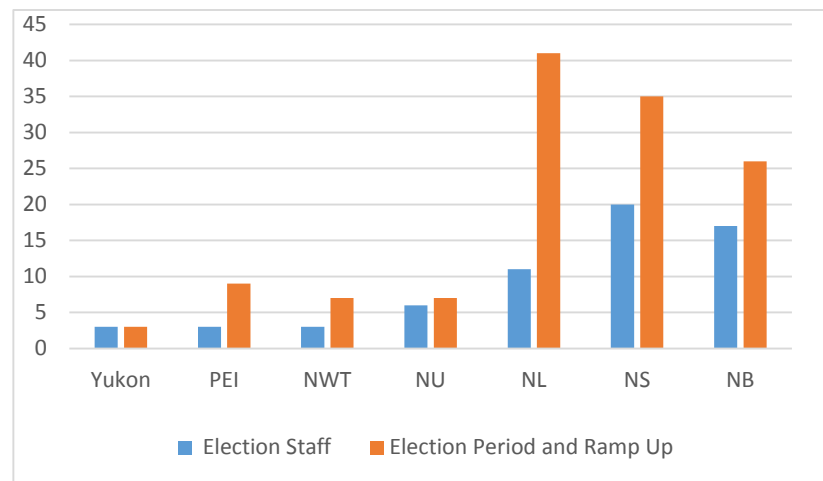
At the most basic level, the electoral system translates votes cast into seats won by political parties and candidates. The core responsibilities include planning voting operations, determining who is eligible to vote, receiving and validating the nominations of electoral participants, conducting the balloting, counting the votes, and reporting the tabulation of the votes.

The mandates of the 14 EMBs (federal, provincial, and territorial) are similar. There are considerable business planning requirements, statutory processes, and overhead functions common to all EMBs regardless of electorate size. Normal EMB staff size range from 3 to 500 personnel with augmented staffing to support election ramp up and post-election period close out activities.

Elections Yukon: Elections Yukon is an independent non-partisan office of the Legislative Assembly. It is co-located with the Legislative Assembly Office in the Administration Building of the Legislative Assembly in Whitehorse.

Elections Yukon is responsible for territorial elections (19 districts), school council elections (26 school attendance areas), and school board elections (one education area for the Yukon Francophone School Board) as well as by-elections. All of these elections follow similar processes and have statutory requirements detailed in the *Elections Act* and *Education Act*.

A principal duty is to maintain a state of election readiness. To deliver to the mandate, Elections Yukon has two full-time established positions; the Chief Electoral Officer and Assistant Chief Electoral Officer. There is no permanent electoral support staff although there is human resource, finance, and shared service support from the Legislative Assembly Office.



In May 2019, an additional staff member was engaged as part of a government subsidized recruitment and development program.

This temporary position was requested as an Electoral Operations Coordinator with principal duties of administrative support, outreach and communications. This position provides important capacity and continuity. The program is currently scheduled to terminate in July 2021. As the maximum duration of the 34th Legislative Assembly is in the fall of 2021, this could be during the period of the ramp up for the general election and the election period.

Elections Yukon – Chief Electoral Officer Mandate: The Chief Electoral Officer is an independent officer of the Yukon Legislative Assembly. The position is responsible for all matters pertaining to the management of general elections and by-elections of Members of the Yukon Legislative Assembly, the trustees of school boards and members of school councils.

The chief electoral officer provides leadership in the conduct of elections and has overall responsibility for the financial, personnel and administrative services of the Elections Yukon office.

It also provides logistical support, technical expertise with respect to the administration of elections, the formulation and amendment of legislation, and the establishment of policies, guidelines and procedures concerning election activities. The position establishes and manages systems for data collection, geomatics and information maintenance.

Electoral Readiness: With territorial and school elections mandates, electoral events are relatively frequent and preparation is continuous.

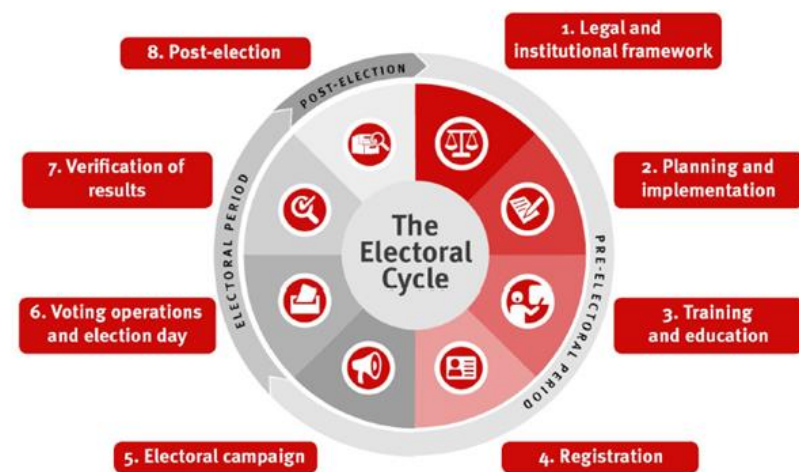
The Elections Yukon approach is one of focus on the processes needed for electoral readiness. This framework supports the ongoing evolution, and maturation, of an electoral management body.

Unlike most other EMBs, Elections Yukon has the added responsibility to administer territorial school council and school board elections. By-elections have been frequent. The readiness activities related to this mandate are also considerable and often overlapping with other activities. In the context of a small staff, the time and effort investment needed to ensure school election processes and readiness should not be discounted; school elections are significant electoral events regardless of turnout.

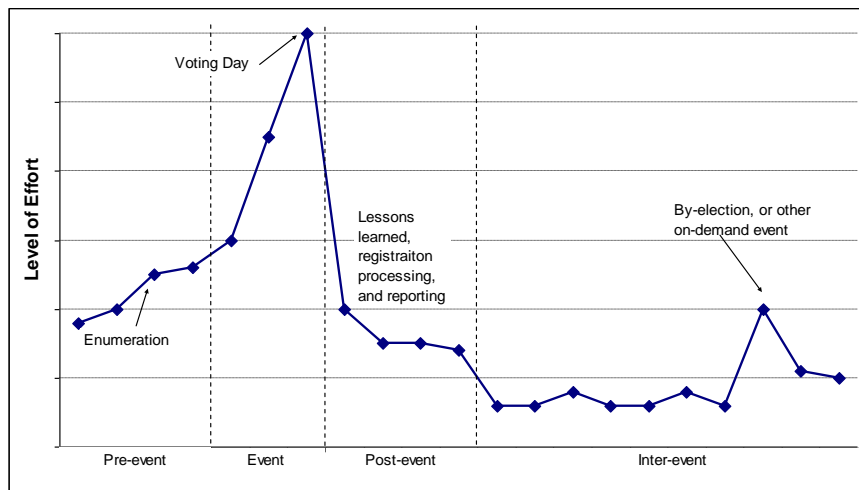
In considering readiness, the consequences of a lack of readiness is significant. Failure is not an option. Electoral unpreparedness may compromise operational delivery and public confidence in the results. Examples are inadequate risk mitigation, limited contingency planning, process non-compliances, personnel or process shortfalls, and a lack of transparency. All could contribute to contested or controverted elections. The close attention given to the electoral processes is integral to overall electoral integrity and readiness.

Electoral Cycle: An electoral cycle is fundamentally a framework for the business cycle. All jurisdictions follow it to progress readiness over the electoral cycle. It aligns with the many statutory, administrative, logistic, operational, technological and stakeholder considerations.

The territorial electoral cycle in the Yukon requires elections at intervals of five years or less. In addition to ongoing readiness, Elections Yukon administers the concurrent and overlapping requirements in support of school council elections (every two years) and school board elections (every three years). There have been a number of school council and board by-elections over the past three years.



- The Election Period: This period follows the readiness process. It is the most intense of the business cycle. It is a minimum period of 31 days. It is clearly defined by legislation with a writ to start the election period, a polling day, and the return the writ after the official addition to end it.



Over 400 elections officials are deployed during the 31 days of an election period. It is a common perception that it is this busy, intense and dynamic period that is the principal work of an electoral authority. In reality, electoral delivery is the product of the preceding work during the election cycle.

- Post-event: This period extends up to a year after the return of the writ. There is much activity. It includes the return of election materials, records are updated, and elector registrations are processed. Lessons learned are incorporated

into various event reports which are prepared and published. Financial revenue and expenditure submissions of candidates are reviewed and reported. Feedback from stakeholders and lessons learned are used to inform legislative reform. An election report is produced. The strategic plan is reviewed and realigned to the new horizons.

The Electoral District Boundary Commission may be established as required by the Act. The chief electoral officer is a statutory member of the Commission.

- Inter-Event Period – This phase began in the spring of 2018 and will continue until the end of May 2020.

There has been a heightened effort since the summer of 2018 to progress the backlog of work and projects from the post-event period. This reflected the transition period between chief electoral officers, the end of the administrative assistant position, the extensive boundary commission commitments, school council general election delivery (and a school board by-election), and the focus on the establishment of the permanent register.

This is the normally the longest phase however may be shortened with a minority government or if there is a risk of a short notice election. It is traditionally the lowest-risk window for disruption in the business cycle where the majority of initiatives and changes are planned and introduced.

This 2-3 year period is a critical phase for strategic planning, legislative reform and the renewal of materials, technology, and stakeholder outreach.

- **Pre event Period:** This period normally extends a year or so before an election and may cross over two budget cycles. It is set to begin in June 2020 and signals the readiness to conduct an election. It will set in place the plans and changes of the previous phase.

This includes recruiting, training, and the production of materials. In addition, targeted revision is conducted, polling division changes are made, computer systems are upgraded, and election supplies are procured for distribution. Communications campaigns are increased to raise awareness. Contingency plans and risk measures are progressed.

The heightened readiness of indeterminate election dates or minority governments may extend this period. If so, it may restrict the number of new initiatives introduced to avoid disruption or a compromise in readiness.

Elections Yukon Challenge: The territory is large; it covers an area the size of Spain. The population outside of Whitehorse is small and dispersed. Geography, demographics, travel routes, logistics, and weather are factors which introduce challenge in readiness planning and delivery.

The most significant challenge however is not in the specific operations; it is the general management and coordination required of Elections Yukon readiness.

Elections Yukon is in transition; a number of the 2015 legislative changes are being implemented, there are important lessons learned from the 2016 election, new technology is being incorporated, and there are additional proposed changes to the legislation. The permanent register is a fundamental shift in how Elections Yukon does it business. There is no status quo option.

These changes have transformed Elections Yukon and how we do our business. They are positive and exciting. It will support the evolution of Elections Yukon to a more mature electoral management body. Improved electoral administration and further focus on elector-centric services will result.

As with most organization, there is an ongoing look to the balance between resources, capacity, and risk. Renewal is required and ongoing. With it, is the need for the management space to ensure the planning is done, the right decisions are made, and the right priorities are set to best deliver to the mandate.



Budgets: The requirement for fiscal stewardship is well understood. Access to public funds is always limited as it must serve many purposes and competing demands.

There is additional capacity required to transition, reset, and to introduce the new initiatives. The Elections Yukon's budget has been subject to reductions. This acknowledges the budget process allows for periodic review.

Creative solutions have been found to progress gaps, shortfalls, and exposure to risk. Organizational capacity and the pace and scope of readiness is a subject of standing interest.

Elections Yukon Report: *The Elections Act* provides for the chief electoral officer to submit reports and make recommendations. This accountability is considered an important responsibility. An annual report will be introduced commencing in 2020.

In the interim, noted below is a general overview of some of the major activities, ongoing work, and accomplishments of Elections Yukon since the summer of 2018.

- New Register Implementation: A major review of the technology and processes was undertaken to introduce and manage a permanent register of electors. This involved many stakeholders and impacted the development of materials, training, and equipment. Data-sharing arrangements were made and discussions with public bodies and other partners and stakeholders were conducted. Launching the register and producing an accurate list of electors remains a major activity.

- School Election Strategy and Process Renewal: A major review of school council and school board processes was conducted. Forms, manuals and materials were redesigned and updated for clarity, information, and accountability. *Education Act* legislation regarding electoral provisions was reviewed with key stakeholders for recommendations.

- School Elections and By-Election Results: A school board by-election was held in August 2018 to fill one position. A trustee was acclaimed.

Five school council by-elections were held in September 2018 to fill critical vacancies following the May 2018 general election. Of the 15 vacant positions, 12 were filled. The positive result is attributed to the renewal processes introduced earlier that summer.

During the Yukon Francophone School Board general election, a vote was held in November 2019 and the 5 trustee positions were filled. The general election of 2016 did not fill all positions and during the interim 4 by-elections, positions were either left unfilled or elected by acclamation.

- Territorial Election Strategy and Process Renewal: A comprehensive review of Elections Yukon's readiness has been conducted. A strategic plan process has been established to plan forward with a horizon of the next two elections. A readiness date has been established.

- Returning Officer Readiness Initiatives: Between elections preparation include recruitment, training, and tasking. The focus has been to engage teams and exchange best practices. Recruiting to fill a number of Returning Officer vacancies for territorial and school elections is ongoing. While retuning officers are a priority, there are additional election officials and support staffs to engage. In 2016, over 400 personnel were required to administer the election.
- Tariff of Fees: The tariff for election officials is under review to adjust for changes to enumeration and revision processes, new requirements, and to include contingency staffs to ensure readiness.
- Legislative Change Recommendations: This has been a major activity to support a number of proposed changes for the ongoing evolution of services to electors and candidates and improve electoral integrity and process transparency. This included changes to data sharing protocols with public bodies to support list of elector accuracy, the extension of revision and registration periods, and the expanded access to special ballots.
- Stakeholder Outreach: Engagement with the public has been given new priority. Activities have included town halls, discussions with First Nation governments and councils, public bodies and municipal leadership, with outreach to various groups (youth, persons with disabilities, non-profit groups,

and new-Canadian organizations) and community support agencies.

Inter jurisdictional liaison with electoral management bodies has been leveraged to support best practices and to facilitate Elections Yukon's journey as a maturing electoral organization.

- Election Material Review and Renewal: With over 200 manuals and forms for the three election types (territorial, school councils and school boards), this has been a major project initiative. The aim is to ensure consistency and continuity of the inventory of forms and manuals to meet accountability, transparency, and process requirements.

Forms are being reviewed for format, compliance, and content to ensure relevancy and clear purpose. This includes merging forms, reformatting forms, creating new forms, eliminating forms, tracking change history, and amending information requirements.

- Privacy: A new privacy and security framework is being established. This is a comprehensive undertaking and has included input and assessments from the Privacy Commissioner, Yukon government information technology staffs, and other electoral agencies. Updated processes and documentation for the protection of data is ongoing for election officials, political parties, candidates and volunteers, suppliers and other electoral authorities and public bodies.

- Website and Social Media Updating: A redesign of the Elections Yukon website has been completed and content updates are being made prior to expected launch in early 2020. The website will contain more information, forms, and introduce inter-active access for electors to update their registration and access applications.
- Expanded Voter Services: Work to integrate web based online access to forms and documents is ongoing. This includes a redesign of special ballot applications and registration forms. As well, online registration and application for special ballots will be possible. Access to special ballots will be expanded with on-site special ballot voting at select locations during the election period. Improved general awareness campaigns for

registration, expanded voter information card coverage, and social media outreach will be implemented.

- Fiscal Stewardship and Capacity Building: Strategy is the effective use of resources to achieve objectives. A term employee was added to the team at the end of May 2019. Primary duties were to support the considerable administrative overhead of the elections office and to champion the electoral outreach programs. Small teams of returning officers and other election officials were engaged as ‘tiger teams’ to add capacity in the work progressing readiness at the headquarters level. Returning officers were all given tasks specifically related to their district and overall readiness.



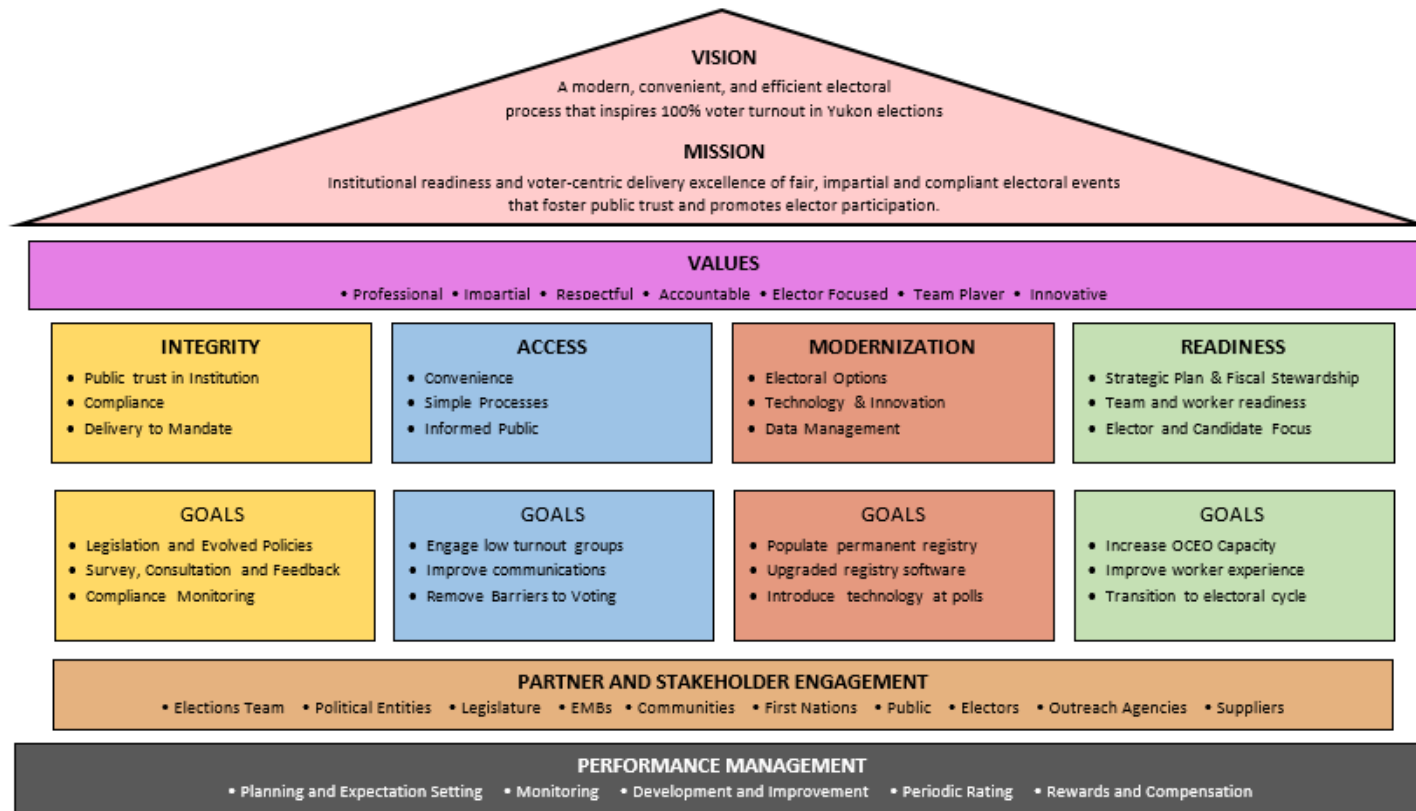
CHAPTER TWO

THE STRATEGIC PLAN

The strategic plan provides the direction, values, and goals needed for Elections Yukon to meet its mandate of fair, compliant and impartial electoral delivery. It helps define the culture and mindset used to guide the decision-making within Elections Yukon. It is the consistent framework by which activity, priority, and investment is determined and measured.

The root of the word 'strategy' is from Greek term for 'the art of the general'. It is the effective use of resources to achieve objectives when there is uncertainty. The planning lifecycle consists of five phases: analysis, design, prioritization, implementation, and delivery.

The introduction of a strategic plan for Elections Yukon, as an electoral management body, is to ensure both the near horizon and forward looking plan is in place for electoral readiness.



In doing so, this recognizes the responsibilities as an electoral institution for the resources, priorities, and processes needed to be in place to deliver to the plan and the mandate.

Electoral Risk: Risk is the effect of uncertainty on those processes and objectives. Measures of risk include likelihood or probability of occurrence, frequency of occurrence, and severity of consequence.

Elections, no matter how carefully planned, encompass risk. Risk must be managed. This requires a frank evaluation of what level of electoral risk is acceptable and the contingency and mitigation plans that are in place to deal with them.

Consideration of risk, and the ways to accept, mitigate, transfer or avoid them, are major factors in the strategic planning process. As such, risk assessment and monitoring are important strategic functions. They form part of the risk management plan.

Exploiting risk is also a consideration. This reflects positive risk. Examples could be that special ballot uptake is higher than expected and the counts take longer and slow the results. Improved registration may promote higher turnout which may create long lines.

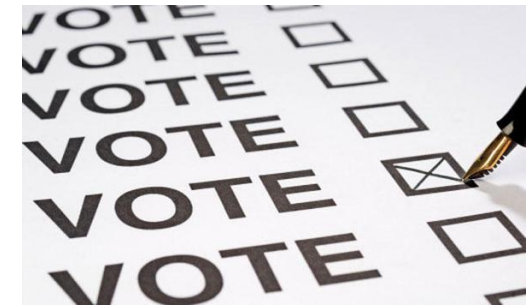
Where there may be exposures to significant risk that cannot be effectively managed, they will be highlighted in reporting with recommendations to address any resource, process, capacity, or schedule shortfalls.

Areas of potential risk that is being monitored include:

- **Reputational Risk:** These are the factors that could bring risk to the integrity of the processes and compromise the public trust and confidence in the electoral system. This would be the most serious of all risks. It is influenced by the many other risk categories and components.

These risks include failure to deliver to the expectations, and real or perceived notions, that Elections Yukon did not administer a fair, impartial and compliant election.

Relationships with stakeholders are a key element of mitigating this risk.



- **Strategic Risk:** These are the factors that could bring risk of compromised readiness and delivery. This may be due to a misalignment between the mandate, the plan, and the capacity to implement them within requisite timelines.

These risks include faulty strategic and risk planning, disconnection with the mission or stakeholder expectations, legislative misalignment, inadequate resources, institutional inflexibility, and inability to introduce change.

- **Compliance Risk:** These are factors that could bring risk of contested elections with non-compliant, unaccepted, unknown, or unenforced processes that do not support the intent of the legislation or serve to support electoral integrity.

These risks include lack of transparency and accountabilities, failure of check and balance process monitoring and enforcement, poor record-keeping, and not seeking or listening to feedback.

- **Operational Risk:** These are the factors that could bring risk to electoral readiness and delivery due to failure to plan or implement the plans.

These risks include inadequate human resource management such as the training and tasking of election officials, as well as poor communications, inconsistent logistic management, and outdated election materials and documents.

The Strategic Plan:

The Elections Yukon strategic framework follows a methodology of establishing where we are (determine position), where we want to go (develop strategy), how to get there (build plan), and how to know when we are there (manage performance).

In practical terms, this strategic plan looks to align with three principal objectives;

- to remedy a number of existing gaps in the processes (internal processes as well as in legislative alignments)
- to renew the administrative foundations and update operational processes to ensure ongoing readiness for territorial, school council and school board general elections and by-elections in a cost-effective manner
- to position Elections Yukon to leverage new opportunities and challenges as well as respond to evolving elector expectations

Vision:

A modern, convenient, and trusted electoral process that inspires 100% voter turnout in Yukon elections.

Mission:

Institutional readiness and voter-centric delivery excellence of fair, compliant and impartial elections that foster public trust and promote electoral participation.

Strategic Pillars: The strategic framework is supported by four pillars; those of integrity, access, modernization and readiness. They are not silos but interconnected and overlapping; a change in one can impact other pillars. There is purposely not a pillar for event delivery; this activity is an integral part of readiness.

All Elections Yukon investment and activities are measured against their service to the strategic plan and the four pillars of institutional focus.

Integrity Pillar: Elections Yukon’s electoral integrity program is to build on the public confidence in the administration of fair, impartial and compliant elections and that the results reflect the will of the electorate.

This provides that ballots are given to qualified electors, the ballots are secret, the processes are in place for transparency, and there is confidence in the results.

Focus areas are electoral oversight, legislation, policies, and processes that are in place, or need to be in place, to ensure the integrity of Elections Yukon and the conduct of the vote.

This includes privacy protection and public outreach to inform and exchange information in support of the right to vote and be a candidate.

Major project activities include a comprehensive review of the governance approach, fiscal stewardship, the relationship with partners and key stakeholders, and leveraging feedback and

Major Integrity Elements

- **Public Trust in Fair Processes**
- **Evolution of Legislation**
- **Compliance and Transparency**
- **Accountability to Public**

jurisdictional best practices. This is to pro-actively evolve Elections Yukon and its mandate as an electoral management body.

Access Pillar: Elections Yukon’s electoral access program focuses on strengthening electoral processes and outreach to promote inclusivity, convenience, and accessibility to all citizens of the Yukon.

A major focus is the removal of barriers.

There are various types of barriers. Each may impede participation to varying degrees.

Objectives in removing the barriers are noted below:

- **Physical Barriers:** to improve accessibility in support of persons with disabilities as well as persons requiring assistance due to mobility, visual or other considerations.
- **Psychological Barriers:** to improve provision of information to under-represented groups regarding the voting process and to mitigate these barriers to voting. Outreach to promote the

Major Integrity Projects

- **Organizational Renewal**
- **Strategic Plan Implementation**
- **Elections Act Amendments**
- **Implementation of the Register**
- **Public Outreach and Reporting**

Major Access Elements

- **Process Improvement**
- **Electoral Awareness**
- **Removal of Barriers**
- **Voter-Centric Approach**

basics of voting are an important way to orient electors and reduce unfamiliarity with the processes. The registration of 16 and 17 year olds is a new focus area.

- **Awareness Barriers:** to ensure adequate channels of information to the general public regarding processes and the details of options, places, and times to vote. This includes using the various communication mediums and community and group networks to inform the public. This is an ongoing process that begins well before the election period.
- **Convenience Barriers:** to ensure there are sufficient options to vote, the time periods are appropriate to exercise them, and there are adequate numbers of venues available to deliver the services. The aim is to facilitate simple, quick, and convenient registration and voting processes.

Major Access Projects

- **Increased Elector Coverage**
- **Engagement with Stakeholders**
- **Improved Communications**
- **Expanded Special Ballot Access**

Voter-centric services include a major communication renewal with concurrent updates to web and social media platforms, new registration opportunities and expanded special ballot voting, and new online access to forms, applications, and information.

Modernization: Election Yukon’s electoral modernization program is forward looking and pro-active. It aims to take advantage of new opportunities, and to update the technical, operational, and electoral processes to meet the evolving expectations of Yukoners.

Major Modernization Elements

- **Support to Election Officials**
- **Renewed Processes**
- **Improved Tools**
- **Introduce On-line Access**

This recognizes and respects the existing strength and democratic safeguards of the current system.

The permanent register implementation is cornerstone of modernization. Other major activities include a greater web and social media presence, the renewal of hundreds of documents and manuals, website security and privacy renewal, as well as improved orientation programs and training packages.

Major Modernization Projects

- **Register Implementation**
- **Redesign of Web**
- **Process Changes and Alignment**
- **Updated Materials and Documents**

Readiness: Election Yukon’s core mandate is the planning and management of electoral events. Territorial elections and by-elections, school council, and school board elections are periodic events that can also happen on short notice.

Major Readiness Elements

- **Election Team Capacity**
- **Returning Officer Appointments**
- **Training and Orientation**
- **Material Inventory**

This provides that the readiness activities progress in accordance with the electoral cycle and that processes are in place to ensure fair, compliant and impartial delivery. This includes the readiness of trained election officials, the availability of offices and polling venues, the updating

of materials and distribution plan, and that the public is kept informed.

The planning for readiness also recognizes the degree of change and innovation that has taken place since the

Major Readiness Projects

- **Updated Recruitment**
- **Realign Poll Divisions and Maps**
- **Election Officer Tasking and Training**
- **Help Desk Establishment**

previous election. With it, is the expectation that more Yukoners will be registered to vote and that there will be a higher uptake of the option to vote by special ballot.



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CHAPTER THREE

PROPOSED CHANGES TO THE ELECTIONS ACT

A key focus of electoral management bodies is legislative reform in order to have the statutory processes to respond to changing expectations, new technologies, and the evolution to improved electoral processes and services.

This supplemental submission follows with additional recommendations to support electoral readiness, process integrity, and elector access. It also serves to update a number of provisions to align with best practices of electoral management bodies. A summary of the proposed *Elections Act* amendments for consideration is detailed below.

	RECOMMENDATION	RELEVANT SECTION	RECOMMENDATION	RATIONALE
1.	Eligibility as an Elector	Section 3 Qualification as an Elector	Reduce 12 month residency period to 6 months or less	<ul style="list-style-type: none"> • Best practices trend • Earlier access to the vote for new Yukoners • Increased number of potential electors
2.	Temporary Residency	Section 8 Temporary Residence	Remove option for temporary workers to have choice of polling divisions	<ul style="list-style-type: none"> • Temporary may vote for candidates in either of two districts, including one they do not live in. • Special ballots would be the preferred option to allow temporary workers to vote in their ordinary district • It may compromise electoral integrity. This provision has unclear definitions (temporary resident and normal work) with no test for eligibility
3.	Election Worker Qualification	Section 11(1) Eligibility	Expand Election Worker Employment Opportunities of 16/17 Year Olds	<ul style="list-style-type: none"> • Additional youth employment opportunity beyond the poll official position supports engagement • Skill and talent competencies suitable for all non-supervisory positions • Supports election officer recruiting efforts
4.	Referendum and Plebiscite Mandate	Section 14(1) Powers	Amend sections to include responsibility to conduct referendums and plebiscites under the <i>Elections Act</i>	<ul style="list-style-type: none"> • The <i>Elections Act</i> is silent on referendums and plebiscites • Referendum administration is typically under the electoral agency • Elections Yukon would have mandate to plan and develop processes

	RECOMMENDATION	RELEVANT SECTION	RECOMMENDATION	RATIONALE
5.	Election Results Tied After Recount	Section 300 Tie Determined By Drawing of Lots	If, after a recount, no candidate can be declared elected because of a tie vote, a new election would be held.	<ul style="list-style-type: none"> • Drawing of lots does not reflect the will of the people • There are significant impacts for the individual so elected/defeated as well as impacts on the composition of Legislative Assembly
6.	Ballot Design	Section 175(1) In the prescribed form	Ballots to include a picture of the candidate.	<ul style="list-style-type: none"> • Support electors with candidate identification and recognition when they vote • Used in a limited number of other jurisdictions
7.	Fixed Election Date	Section 50 Order for an Election	Include provision of a fixed election date	<ul style="list-style-type: none"> • Only Yukon and Nova Scotia do not have fixed election dates or election windows (such as Alberta) • Supports electoral planning, election worker recruitment, and participation
8.	Appointment of Electoral District Boundaries Commission (EDBC)	Section 411 Time of Appointment	Amend the appointment interval to allow an EDBC to be established after the next general election.	<ul style="list-style-type: none"> • Currently the next EDBC could not be established before May 2023 and then only if two elections were held in the interim • Avoids delay after next election for legislative amendment to authorize option of establishing EDBC
9.	Considerations For Electoral District Boundaries Commission (EDBC)	Section 419 Relevant Considerations	Update relevant considerations to allow additional guidance to the EDBC prior to its establishment.	<ul style="list-style-type: none"> • Provides option for guidance to support EDBC mandate • Additional specific guidance is provided in election acts of other electoral jurisdictions
10.	Administrative Responsibility for the <i>Elections Act</i>	Outside of <i>Elections Act</i> . Government Organization Act and OIC 2014/174	Administrative responsibility for the <i>Elections Act</i> be under the Legislative Assembly	<ul style="list-style-type: none"> • Align <i>Elections Act</i> responsibility with other Acts relating to independent house officers • Elections Yukon is not a department of government and there are existing administrative responsibilities and linkages with all-party Members' Services Board under the Speaker

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Eligibility as an Elector

Section 3 – Qualification as an Elector

Recommendation

Reduce the 12 Month Residency requirement to 6 months or less

Rationale:

A reduced residency period would increase the electorate and provide new residents with earlier voting rights to elect their representative for the next 5 year (or less) term.

Discussion

Residency requirements were historically linked with eligibility to vote to reflect stakeholder interest in the election. In 2017/2018, 1684 new residents from other provinces moved to Yukon. That potentially represents a large number of Yukoners, who benefit from services and are subject to taxes, that would not have the right to vote (acknowledging that a six month residency would still exclude a number of new residents). A further 429 international migrants entered the territory, although citizenship may exclude them from voting.

Until recently, the territories were the only jurisdictions with a 12 month residency requirement for elector eligibility to register and vote. Nunavut now has ended their 12 month residency requirement completely and NWT recently reduced their residency requirement to six months. For other jurisdictions, the residency requirement is to be a resident at the time of the election or residency of at least six months prior to the election.

Eligibility as an elector is also a prerequisite to be a candidate. If the residency period was 6 months in 2016, the latest date of residency would have been May 7, 2016 instead of November 7, 2015. The *Municipal Act* requires a one year residency for municipal elections.

Age Group ²	Interprovincial Migrants ¹			International Migrants					
	In-migrants	Out-migrants	Net Interprovincial Migration	Immigrants ³	Emigrants ⁴	Returning Emigrants ⁵	Temporary Emigrants ⁶	Net Non-permanent Residents ⁷	Net International Migration
2017/2018									
-1 year ⁸	9	7	2	2	0	0	0	0	2
0 to 4 years	116	82	34	10	0	0	0	4	14
5 to 9 years	79	46	33	10	0	0	0	2	12
10 to 14 years	53	53	0	8	0	0	0	1	9
15 to 19 years	93	89	4	5	0	0	0	90	95
20 to 24 years	186	141	45	20	6	2	2	65	79
25 to 29 years	330	295	35	83	10	1	10	56	120
30 to 34 years	233	192	41	53	10	0	10	12	45
35 to 39 years	157	101	56	44	10	0	7	-1	26
40 to 44 years	120	107	13	17	8	0	0	12	21
45 to 49 years	78	71	7	5	5	0	0	0	0
50 to 54 years	83	95	-12	3	2	0	0	0	1
55 to 59 years	76	79	-3	2	0	0	0	4	6
60 to 64 years	57	51	6	0	0	0	0	-4	-4
65 to 69 years	10	41	-31	0	0	0	0	0	0
70 to 74 years	1	21	-20	1	0	0	0	2	3
75 to 79 years	3	7	-4	0	0	0	0	0	0
80 to 84 years	0	0	0	0	0	0	0	0	0
85 to 89 years	0	0	0	0	0	0	0	0	0
90 to 94 years	0	0	0	0	0	0	0	0	0
95 to 99 years	0	0	0	0	0	0	0	0	0
100 years and over	0	0	0	0	0	0	0	0	0
2017/2018 (All ages) (p)	1,684	1,478	206	263	51	3	29	243	429
2016/2017 (r)	1,558	981	577	233	51	3	29	126	282
2015/2016 (r)	1,531	1,255	276	254	51	3	28	112	290
2014/2015 (r)	1,348	1,261	87	264	3	0	28	-36	197

POPULATION

2

Temporary Residence

Section 8 – Temporary Residence

Recommendation

Remove the option for electors who, while temporary resident in a different electoral district while working, to have a choice of which electoral district to cast their vote.

Rationale

To reduce integrity risk issues, special ballots would be the voting option for electors temporarily residing in an electoral district other than their ordinary place of residence.

Discussion

The resource, exploration and construction sectors deploy many hundreds of workers and service staffs from various parts of the territory. There are dozens of operating mines and camps in the Yukon. Many work in a different electoral district than the place of their ordinary residence.

Typically, if temporarily employed out of district or absent, an elector would vote by special ballot, or if available, at the advance or ordinary poll in their district. Increased special ballot access and outreach would support electors outside the district of their ordinary residence.

Currently this section allows temporary workers employed at “their normal occupation” the option of being considered a resident either in the polling division where they work or at the polling division of their ordinary residence. They can choose between two districts and two slates of candidates.



Residence is defined as the 'true, fixed, permanent home or habitation' (section 6) which qualifies an elector to vote in that polling division (section 3). There are specific exceptions outlined in section 8 for temporary residents.

While resource sector 'normal employment' may be the main intent of this provision, the term 'normal occupation' is not defined and there is no test for eligibility. Normal employment could potentially include part time employment, self-employment, contract work, care-giving or other types of work. Other than being a temporary resident at the time the writ was issued, there is no minimum time of residency in the district of temporary residence.

Section 8 allows an elector with as little of two days as a temporary resident the option to choose which electoral district to cast their vote. The elector would have the option if temporarily residing there when the writ for a general election was issued. As general election is only referred to in section 8, it would not allow a worker in a temporary residence to vote in a by-election in the electoral district of their temporary residence.

This provision may provide a 'strategic' voting option for the individual, and potentially, the employer. With low elector counts and frequent close races, the option to choose electoral districts could be perceived as providing an unfair advantage or offer inconsistent opportunity to certain electors and thereby pose a risk to electoral integrity.

This section also applies to a student attending an educational institution or in the hospital after Day 24 of the election period. The provisions for student and hospitalized electors would remain unchanged.



3

Election Officer Eligibility

Section 11(1) - Eligibility

Recommendation

Expand election worker employment opportunities of 16/17 year olds.

Rationale

Employment of 16 and 17 year olds would promote early engagement in civic activities and offer an important presence and talent pool to election teams.

Discussion

At the end of 2018, it was estimated there were 751 youth aged 16 or 17 years old in the territory. As of March 31, 2019 it is estimated there are 805 youth. The 2015 *Elections Act* amendments authorized registration of 16 and 17 year olds. This recommendation expands youth participation in the electoral process.

Currently legislation allows 16 and 17 year olds employment only as a poll attendant. Poll attendants promote the orderly movement of electors in polling places. It is the lowest paid position at \$15/hr (under review).

Expanding opportunities would recognize the considerable youth skill, energy and talent sets. It would also promote increased youth awareness and engagement in the election process. It would also support election team recruiting.

The expanded employment options for suitably qualified youth (except for age) would include revising agent, deputy returning officer and poll clerk. The elector requirement for the supervisory positions of Returning Officer, Assistant Returning Officer, Additional Assistant Returning Officer and Information and Resource Officer would be unchanged.

Elections Canada allows 16/17 year olds in any electoral position with note that priority will be given to qualified electors.

COMMUNITY	16			17		
	Both sexes	Females	Males	Both sexes	Females	Males
01. BEAVER CREEK						
02. BURWASH LANDING	1	1				
03. CARCROSS	3	2	1	9	4	5
04. CARMACKS	8	6	2	7	3	4
05. DAWSON CITY	19	8	11	21	8	13
08. FARO				2	1	1
09. HAINES JUNCTION	10	3	7	8	3	5
10. MAYO	3	1	2	2	1	1
11. OLD CROW	1		1	2	1	1
12. PELLY CROSSING	5	2	3	1	1	
13. ROSS RIVER	5	3	2	4	1	3
14. TAGISH				2		2
15. TESLIN	5	3	2	5	2	3
16. WATSON LAKE	21	8	13	10	4	6
17. WHITEHORSE/MARSH LAKE	279	128	151	317	154	163
20. YUKON TOTAL	360	165	195	391	183	208

4

Referendum and Plebiscite Mandate

Section 14(1) - Powers

Recommendation

Amend sections to include responsibility to conduct referendums and plebiscites under the Elections Act.

Rationale

Provide clarity and authority to the chief electoral officer's statutory mandate for the necessary preparations and readiness responsibilities relating to referendums.

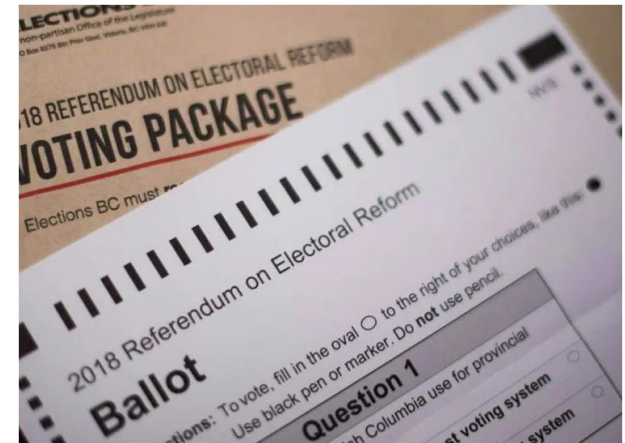
Discussion

There is no statutory mandate or responsibility in the *Elections Act* for Elections Yukon's oversight of referendums and plebiscites. As such, there is no authority for the preparatory processes, materials, or activities to be in place to ensure readiness.

The *Public Government Act* (PGA), assented to in 1992, provided for the chief electoral officer to be responsible for the conduct of referenda. It also repealed the *Plebiscites Act*. The PGA is no longer in force. The current *Plebiscites Act* (2002) provides for the Commissioner-in-Executive Council to make regulations for a plebiscite but makes no reference to referenda or responsibility for the conduct of the referendum.

The only mention of referendum or plebiscite in the *Elections Act* is as part of the interpretation of 'official electoral purposes' with specific reference to a requirement to produce a list of electors. Other jurisdictions include mandates for referendums in their elections acts.

Elections Yukon has previously been mandated to administer referendums and plebiscites. It has the permanent register and list of electors, territorial network of election officials, and statutory processes, including mail-in ballots, to support a referendum and plebiscite.



5

Ballot Design

Section 175(1) – In the prescribed form

Recommendation

Allow ballots to include pictures of the candidate.

Rationale

To support elector identification and recognition of candidates.

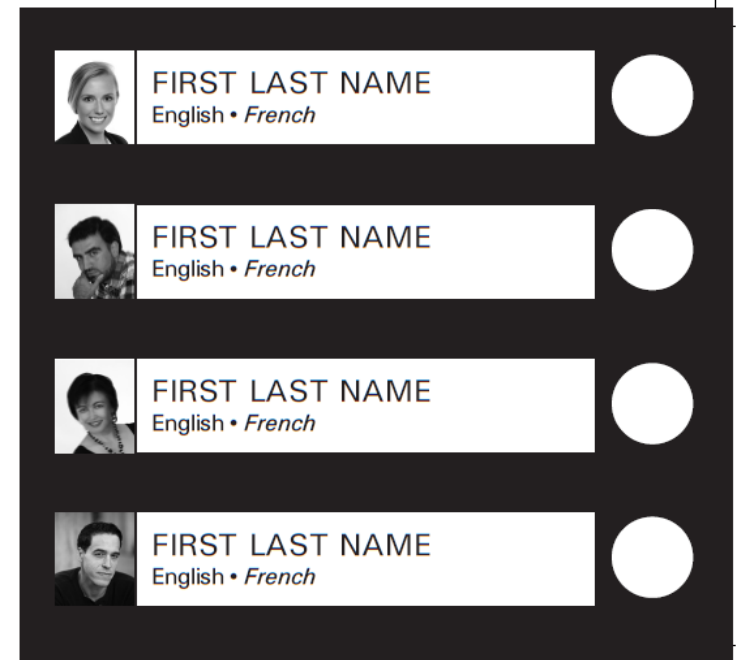
Discussion

In 2016, 13 electoral districts had three candidates, 6 districts had four candidates. Four parties were represented. There was one independent candidate.

Pictures of candidates on the ballots would support electors in recognizing candidates and their campaign.

Ballots for the Quebec and NWT elections have a black and white photograph of the candidate on the ballot. Their Acts specify the type of picture to be provided with the nomination papers. A picture is not mandatory.

A prototype ballot for Yukon, with sample candidate pictures, has been designed by the ballot supplier as a sample. The English and French line is for the name of the party. This ballot has been designed to meet current requirements and for use with a plastic template to be introduced to support the visually impaired.



6

Election Results Tied After Recount

Section 300 - Tie Determined By Drawing of Lots

Recommendation

If, after a recount, no candidate can be declared elected because of a tie vote, a new election would be held.

Rationale

The election of a member of a tied ballot count is selected by a random draw. They would not have the highest number of votes. This may not reflect the will of the electorate.

Discussion

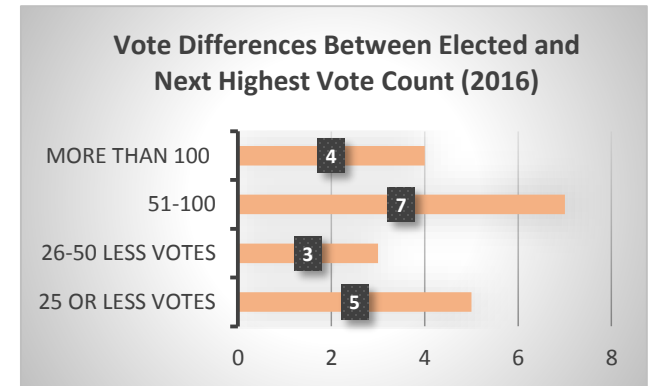
A member when elected, may serve during a term of up to 5 years. There are significant employment, contribution and financial consequences for the individual that is elected or defeated. They also represent political parties or independents which may impact the composition of government and potentially the balance of power.

In 2016, 15 of the 19 electoral districts declared winners with less than a 100 vote difference over the second place candidate, including two districts with a 7 vote margin and one with a 14 vote margin.

Currently, when a judge finds after a recount that there is an equality of votes cast between candidates with the highest number of votes, the winner is determined by the returning officer with the drawing lots in the presence of a judge and witnesses.

In the event of a tie, some jurisdictions call for a by-election. In Yukon, there is a somewhat similar process (section 129) that a new election is to be held when a candidate dies after the close of nominations and before close of polls. A new notice of the close of nomination date is given and the poll is held 21 days later.

Some jurisdictions are silent in the event of a tie, others flip a coin and others hold by-elections.



7

Appointment of Electoral District Boundary Commission (EDBC)

Section 411 – Time of Appointment

Recommendation

Amend the time of appointment to allow the option for an EDBC to be established after the next general election.

Rationale

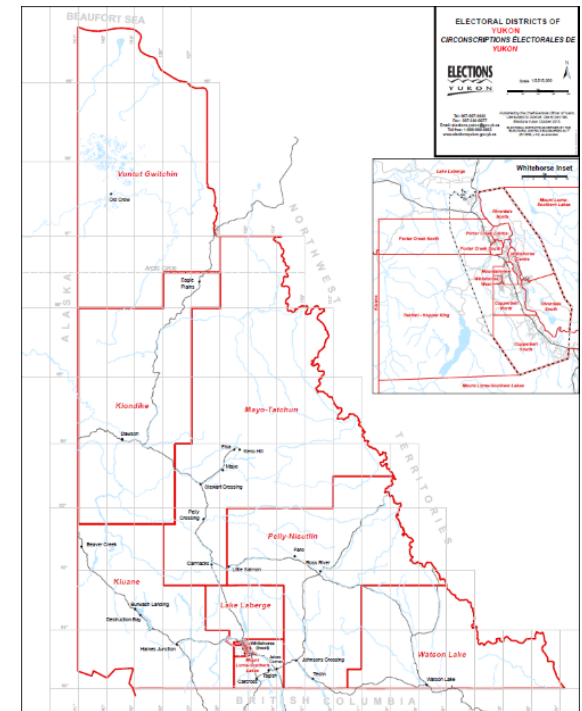
An EDBC could not be established prior to May 3, 2023 and then only if there were two elections in the interim. An amendment prior to the next election would allow the option for an EDBC to be established expeditiously as an amendment at that time would not be required.

Discussion

If an appointment of an EDBC prior to 2023 is contemplated, the *Elections Act* would need to be amended.

The Act requires that a Commission be appointed within six months following every second general election after the appointment of the last commission. It also limits the appointment of a Commission as ‘no sooner than six years after the appointment of the last Commission.’ As such, there are two conditions; six months after every second election and a six year interval from the previous Commission.

The Commission following the 2016 general election was appointed by Order-in-Council on May 3, 2017. Currently, the earliest statutory time for the appointment of next boundary commission would be May 3, 2023 but only if two general elections were held in the interim. The next election must be held no later than November, 2021.



8

Considerations for Electoral District Boundary Commission (EDBC)

Section 419 – Relevant Considerations

Recommendation

Update relevant considerations to allow additional guidance to the EDBC prior to its establishment.

Rationale

Other jurisdictions provide specific guidance to the EDBC in the legislation. Expanded statutory guidance to the EDBC regarding any factors, limits or processes would provide additional information support the EDBC objectives and planning considerations.

Discussion

The Act details a number of relevant considerations. In 2017, the Reports of the Commission refer to the requirements of the Act for their mandate and outline their guiding principles.

While independence of the EDBC is essential, additional and updated relevant considerations or guidance could be provided to the EDBC prior to its establishment.

If appropriate, this could include guidance for other factors such as quotients, variances (and urban/rural differences if applicable), mix of urban or rural districts, a specified number or range limit of electoral districts, and any contingency reporting or consultation requirements.

A regulation or terms of reference process also allows the option of additional redistribution rules or updated guidance to the mandate of the EDBC prior to its establishment.

(Extract from the Alberta Electoral Boundaries Commission Act)

ELECTORAL BOUNDARIES COMMISSION ACT

1 Definition

Part 1 - Electoral Boundaries Commissions

2 Electoral Boundaries Commission

3 Function

4 Remuneration

5 Time of appointment

6 Report to Speaker

7 Public hearings

8 Amendment of report

9 Commission report

10 Report to Assembly

11 New electoral divisions

Part 2 - Redistribution Rules

12 Population of Alberta

13 Electoral divisions

14 Relevant considerations

15 Population of electoral divisions

9

Fixed Election Date

Section 50 - Order for an Election

Recommendation

Include provision for a fixed election date.

Rationale

Most jurisdictions have fixed election dates. Uncertain election dates may result in short notice or unexpected election calls which may reduce public discussion and engagement. Fixed election dates support planning as well as candidate and elector participation.

Discussion

A general election in Yukon can be called any time prior to the 5th anniversary of the return of the writs from the previous election. The Act is silent on when an election is held; the federal Yukon Act (section 11(1)) requires that no Legislative Assembly shall continue for longer than five years after the date of the return of the writs for a general election, but the Commissioner may dissolve it before then.

All Canadian jurisdictions have fixed election dates (or, in the case of Alberta, a 3 month window) every four years except Yukon and Nova Scotia. Predictable fixed election dates are believed to support improved governance and electoral planning, increases fairness and transparency, and promotes higher voter engagement and candidate participation. Fixed election dates do not preclude the call of an election prior to, or after, the fixed election date (if within the 5 year period).

(Extract from the Manitoba Elections Act)

Powers of Lieutenant Governor preserved

49.1(1) Nothing in this section affects the powers of the Lieutenant Governor, including the power to dissolve the Legislature at the Lieutenant Governor's discretion.

General election on first Tuesday in October

49.1(2) Subject to subsection (1),

- (a) a general election must be held Tuesday, October 4, 2011, unless a general election has been held between the coming into force of this section and October 3, 2011; and
- (b) thereafter, a general election must be held on the first Tuesday in October in the fourth calendar year after election day for the last general election.

10

Administrative Responsibility for the Elections Act

Related Acts: Government Organization Act and OIC 2014/174

Recommendation

Administrative responsibility for the Elections Act be with the Legislative Assembly.

Rationale

To align responsibility for the *Elections Act* under the Legislative Assembly and the all-party process under the Speaker as is the case with the Acts related to other independent and non-partisan house officers.

Discussion

The direction and supervision of elections exercised by the chief electoral officer is governed by the *Elections Act*. Responsibility for the *Elections Act* was previously transferred from the Legislative Assembly to the Executive Council and a Minister. As such, amendments are administered through the Executive Council process.

Elections Yukon is not a department of government and not under the direction or control of a member of the Executive Council, or a Minister. The chief electoral officer is accountable directly to the Yukon Legislative Assembly for the delivery of fair, compliant and impartial elections. To ensure independence of the office, the chief electoral officer, as for all House Officers, is not subject to the direction of the Executive and serves as part of a different branch of government, the Legislative Branch. The chief electoral officer gets guidance and approvals from the Members' Services Board, a Board of the Legislative Assembly, which has representation of all parties.

The Legislative Assembly maintains responsibility for other Acts pertaining to house officers, such as the *Child and Youth Advocate Act*, *Ombudsman Act*, and *Conflict of Interest Act* (Members and Ministers). Elections Yukon is a component of the Legislative Branch. The chief electoral officer has statutory responsibilities and administrative linkages to the Members' Services Board including budgets and innovation.



