

Local Government Elections Task Force Campaign Finance Disclosure Discussion Paper

February 2010



Local Government Elections Issue: **Campaign Finance Disclosure**

ISSUE SUMMARY

Campaign finance disclosure is the dissemination of information about campaign contributions and election expenses. This paper summarizes the campaign finance disclosure system for local government elections in B.C., provides some comparisons with other disclosure systems, and discusses some of our system's perceived pressure points. The paper ultimately asks the Task Force for direction on whether further work is required on aspects of campaign finance disclosure.

The disclosure system applies to all local government elections, boards of education elections, and some other local elections. Disclosure was required from over 3050 candidates in the 2008 local elections. Campaign organizers and elector organizations must also disclose. Disclosure is made after elections and includes contributions and expenses, surpluses and deficits. Disclosure reports are filed with local government officers and must be accessible for 7 years. Those who fail to make disclosure are publicly listed and face automatic disqualification from office and candidacy, in addition to other potential penalties.

BC's local government election disclosure rules share some features with BC's provincial election rules, such as post-election disclosure, but there are some differences, such as the lack of centralized oversight and auditing requirements. Across Canada, some provinces have no provincially-mandated disclosure rules for local government elections; others authorize local governments to establish their own disclosure rules; while still others require disclosure of contributions or both contributions and expenditures.

Campaign finance disclosure issues have generated interest amongst the public and local governments. Alleged incidents of non-disclosure have been reported in the press. Past Union of British Columbia Municipalities' (UBCM) resolutions have sought to change the campaign account requirement and have emphasized the need for transparency. In advising and monitoring local government elections, the Ministry of Community and Rural Development (the Ministry) has noted that numerous campaigns are small, and while the rules are generally understood and followed, some find the reporting requirements challenging. Questions about the accessibility of disclosure reports have also been raised by some commentators.

The principle of transparency is central to disclosure rules, but the rules should not be so burdensome for candidates and associated organizations or for election officials as to limit accessibility. There should be consistency in all local elections, yet accommodation of the varying circumstances of local governments and candidates.

Several pressure points have been identified in the current disclosure system: (1) some candidates experience difficulties following and applying the disclosure rules; (2) some have questioned whether

the disclosure requirements, especially the separate account requirement, are necessary for small campaigns; (3) others have complained that the requirements are not stringent enough and have called for more rigorous disclosure or audited reports; (4) concerns have been expressed that disclosure should be required earlier; and (5) that disclosure materials need to be easier to access and interpret.

Consideration of pressure points in campaign finance disclosure could have implications for other elements of the campaign finance system, such as enforcement and expense limits. Regional and campaign size variation should also be kept in mind, as well as the impact of any changes on boards of education elections.

BACKGROUND

Campaign finance disclosure involves the dissemination of information about the campaign contributions and election expenses of candidates, elector organizations, and campaign organizers (i.e., election participants) in local government elections in British Columbia.

1. The current local government campaign finance disclosure system.

Only *campaign* finance disclosure is addressed in this paper. It does not discuss political finance disclosure requirements outside of election campaigns. For instance, elected officials and nominees must make disclosure under the *Financial Disclosure Act*, and there are laws requiring disclosure from elected local government officials when potential conflicts of interest arise.

The campaign finance disclosure rules appear in the *Local Government Act* (LGA) and in parallel provisions in the *Vancouver Charter*. They apply to all local government elections in BC, board of education elections, and to elections to several park boards, community commissions, and the Islands Trust. In 2008, election contests took place to fill over 1,600 elected positions for over 250 local government bodies. Approximately 3050 candidates ran in local government and school trustee elections¹. Some of these candidates were supported by campaign organizers or elector organizations, which are required to file separate disclosure reports.

Who discloses? Candidates² and elector organizations³ must disclose, as must campaign organizers who receive or spend more than \$500 toward a campaign.⁴ All must make disclosure through an appointed financial agent, though candidates and individual campaign organizers are permitted to be their own financial agent.

¹ This figure includes municipal, regional district electoral director, Island Trust and school trustee candidates. It does not include candidates for elected park boards or community commissions.

² A “candidate” is anyone seeking election to local government office or who accepts contributions or incurs expenses with this intention.

³ “Elector organizations” are formed for the purpose of promoting a candidate or point of view in a local government election and can indicate their endorsement on the ballot.

⁴ “Campaign organizers” are individuals or groups who promote or oppose candidates or points of view during local elections. A campaign organizer need not identify itself to the chief election officer unless it incurs campaign contributions or election expenses greater than \$500.

What must be disclosed? All campaign contributions and election expenses must be disclosed, whether monetary or in kind, at market value, along with campaign surpluses or deficits. Debts unpaid for 6 months or more are deemed to be contributions. Contributions and expenses must be itemized and categorized according to the provisions of the LGA and related regulations. The name and address of the savings institution at which the campaign account was kept must be disclosed. Multiple contributions from a single source that in aggregate total \$100 or more must be disclosed. Anonymous donations of more than \$50 are prohibited, but anonymous donations of lesser amounts must be totalled and reported. Candidates must identify any elector organization that endorsed them, and elector organizations the candidates they endorsed; campaign organizers must identify any candidates or elector organizations for which they campaigned.

Recording Requirements? As soon as any contributions are received or expenditures made, a dedicated campaign bank account must be opened into which all campaign contributions must be placed and from which all election expenditures must be made. Any money, property or service provided for use in a campaign must be recorded as a “campaign contribution”, but only an expenditure made during the calendar year in which the general election is held need be recorded as an “election expense”.

When? All disclosure is made post-election. Within 120 days after voting day, each financial agent must file a disclosure statement. Those who miss a filing deadline have a 30-day grace period but must pay a \$500 late filing fee. They can also apply to court for relief. If an election participant or their financial agent becomes aware of new information or inaccuracies, a supplementary report must be filed within 30 days.

To whom? Disclosure reports are filed with the designated local government officer.

Public access? Reports must be available for public inspection in local government offices during regular office hours for 7 years. Local governments have discretion to provide additional access as they see fit, e.g., internet access.

Consequences of non-disclosure? After the election, each local government makes a public report of election participants who failed to make disclosure. A candidate who fails to file a campaign financing disclosure statement is automatically disqualified from being nominated for, elected to, or holding office until after the next general local election. Elector organizations or campaign organizers who fail to file are also disqualified from participating. Concerned electors or the local government may apply to Supreme Court to have a person or organization disqualified who has made false or incomplete disclosure. Complaints may also be made to the police with respect to alleged offenses.

2. Campaign finance disclosure for B.C. provincial elections

Disclosure in provincial government elections is governed by the *Election Act*.

Who discloses? Candidates, registered political parties that fielded candidates and their registered constituency associations, and election advertising sponsors (third party advertisers) must disclose. Other than advertising sponsors, all must disclose through an appointed financial agent, though candidates are permitted to be their own financial agent.

What must be disclosed? For candidates, parties and constituency associations all income received (including campaign and nomination contributions) and all expenses incurred (including election expenses) must be disclosed. Goods and services must be reported at market value. Details of fundraisers, loans, transfers (between candidates, constituency associations and parties), nomination expenses incurred during the campaign period, and campaign surpluses and deficits must also be reported. These must be itemized and categorized according to the rules. If election expenses or political contributions exceed \$10,000, the report must be audited. Advertising sponsors must disclose contributions, the value of own assets used to sponsor advertising, and the value of election advertising sponsored.

Recording Requirements? For candidates, parties and constituency associations, every transaction in relation to a campaign must be recorded, regardless of when it was incurred (i.e., before, during and after an election). All monetary transactions must be made through a campaign account.

When? All disclosure is made post-election. Within 90 days after voting day, each entity must file a report in accordance with the B.C. *Election Act*. If inaccuracies are identified, a supplementary report must be filed within 30 days. Those who miss a filing deadline have a 30-day late filing period but must pay a \$500 fee.

To whom? Disclosure reports are filed with Elections BC.

Public access? Reports must be available at Elections BC during regular office hours for a minimum of five years, depending on the filing entity. All reports are scanned and posted on the Elections BC website, and disclosures of political contributions are available in a searchable database.

Consequences of non-disclosure? If a candidate is elected as an MLA and fails to file, they lose their seat. All candidates who fail to file are disqualified from running until after the next general election, unless they pay \$10,000 to the Chief Electoral Officer and file the disclosure statement. Parties, constituency associations and advertising sponsors who fail to file are deregistered. Advertising sponsors must also pay \$500 a day for every day the report remains unfiled. All entities can apply to the Supreme Court for relief from the filing obligation. For all entities, filing a false or misleading report is an offence. The Chief Electoral Officer may conduct investigations on any matter that may constitute a contravention of the *Election Act*, and must consider whether to investigate any complaints received.

3. Local government campaign finance disclosure in other jurisdictions.

Alberta, Saskatchewan, New Brunswick, Prince Edward Island, Yukon, Northwest Territories and Nunavut do not have any provincially mandated local government campaign financing rules⁵. Alberta and Saskatchewan allow local governments to establish their own bylaws regarding campaign financing. Saskatoon, for example, has passed a bylaw that imposes disclosure requirements and establishes a municipal officer to investigate complaints about false, misleading or incomplete disclosure of election contributions or expenses. Manitoba, Ontario and Quebec require the disclosure of both expenses and

⁵ Alberta has proposed mandatory campaign financing rules for local governments in Bill 203. This Bill has been passed by the Legislature and is awaiting proclamation.

contributions. Nova Scotia and Newfoundland and Labrador only require the reporting of contributions, though the latter also permits municipalities to require expense reporting by bylaw. More information on the disclosure rules for local government elections in other provinces appears in **Appendix 1**.

4. Election Experiences and UBCM resolutions

Experiences in the recent local government elections suggest some “pressure points” within the current disclosure system. A summary of these experiences follows.

Election Experiences: Some local government campaign finance disclosure issues have become a matter of public record due to media coverage or investigation by the police.

- *Vancouver* – Media attention focused on increasing amounts of money being spent on election campaigning, around \$5 million in the 2008 municipal elections. Concerns were raised about the risk of undue influence, the lack of expense audits, and the perceived ability of elector organizations to carry large debts without identifying creditors.
- *Central Saanich* – In the fall of 2008, police investigated citizen complaints that a local business, which was seeking a rezoning, made campaign contributions that were not disclosed. The RCMP investigated and recommended 19 charges, but Crown counsel chose not to proceed.
- *Langley* – A local parent group ran an advertisement promoting a slate of board of education candidates in the 2008 local election. Media reports alleged that they failed to identify themselves to the local government as a “campaign organizer” or file disclosure statements.
- *West Vancouver* – It was reported that two citizen associations campaigned extensively on behalf of some municipal candidates without identifying themselves to the local government as “campaign organizers” or filing disclosure statements. Some of the candidates supported by the associations were reported to have made contributions to those associations.
- *Summerland* – It was reported that an organization placed a series of advertisements in a local paper endorsing several candidates who were subsequently elected to municipal council, including the mayor. The organization did not identify itself as a “campaign organizer” under the LGA, and the candidates reported the ads as “anonymous contributions”, leading to allegations that they wrongfully accepted prohibited contributions.
- Two persons elected to boards of education failed to comply with the disclosure rules and had to apply to court for relief. One, from Victoria, failed to file a disclosure statement in the prescribed form and had to obtain a court order reinstating her; the other, from Mission, did not open a campaign account and had to obtain a court order relieving her of that obligation. In both instances, the court found that the candidates had made errors in good faith and were entitled to assume office.

Resolutions before the UBCM relating to disclosure: While there have been a number of endorsed UBCM resolutions on aspects of campaign financing (e.g., tax credits for contributions), few have been specifically on disclosure.

- A 2000 UBCM resolution requested that candidates who accept no contributions be exempted from the requirements of keeping a campaign account and paying expenses from it. The resolution was endorsed, and it led to a legislative amendment in 2008 exempting candidates with neither expenses nor contributions from the campaign bank account requirement.
- A 2003 resolution, referencing the need for transparency, public confidence in their leaders, and the need for officials to avoid potential conflicts of interests, proposed election finance reform generally and some specific prohibitions. The resolution was not endorsed.

- A resolution tabled at the 2009 UBCM Convention called for the campaign organizer disclosure requirements to be extended to “other voting” (e.g., referendums, matters requiring elector assent). The UBCM referred this resolution to the Task Force. That issue will be the topic of a separate paper.

These three resolutions are attached to this paper as **Appendix 2**.

Ministry information: As part of the Ministry’s role in providing advice and monitoring election rules and practices, the Ministry hears from local government administrators, candidates and some members of the public. The Ministry also conducted a survey of election staff and candidates following the 2008 general local election.

Based on these sources, facts and perceptions about the disclosure rules emerge:

- *Low disqualification rate:* 53 local government candidates were disqualified after the 2008 elections for failing to file disclosure statements. This represents a candidate disqualification rate of 2.2%.
- *Numerous small campaigns:* Many candidates appear to act as their own financial agents, and a good percentage of these did not open campaign accounts. This suggests that a significant number of campaigns were largely “one person shows” which involved few or no campaign contributions and for which candidates prepared their own disclosure statements.
- *Some accounting challenges:* Some people reported finding the 2008 disclosure requirements challenging. The requirements most frequently identified as unclear included how to dispose of surplus funds; receiving contributions and incurring expenses solely through the financial agent; and how and when to file supplementary reports.
- *Campaign bank accounts:* Some candidates appear to have not understood that a campaign account must be opened as soon as any monetary campaign contributions are received or expenses incurred. Others reported difficulties with their banks in setting up and using campaign accounts and some questioned why such accounts are necessary.
- *Alleged rule violations and related enforcement questions:* Questions raised to Ministry staff about the disclosure rules being broken or inadequately enforced were often linked to alleged non-compliance by campaign organizers.
- *Disclosure reports:* Some concerns have been voiced that disclosure reports are not readily accessible to voters and researchers and that standards of access vary widely across the province (i.e., some academic researchers said that the lack of a central repository made it more difficult for them to interpret disclosure reports for trends).

DISCUSSION

A. Principles of Campaign Finance Disclosure Rules

Campaign disclosure is one of the five elements of campaign financing. Rules concerning campaign disclosure are based on the principles of campaign financing.⁶ These principles exist in balance with one another, such that some principles may feature more prominently for some elements. In campaign

⁶ For a greater discussion of these principles, please see the “Overview of Campaign Financing” discussion paper.

finance disclosure, key principles are those of transparency and accessibility, in addition to flexibility and consistency.

Transparency and Accessibility

The principle of transparency is central to campaign disclosure rules. Transparency of candidates' campaign finance information enables the electorate to be informed of which interests might influence the policies and actions of candidates and elector organizations once in office. Such rules also facilitate enforcement by ensuring that the information necessary for ensuring compliance with campaign finance rules is available for scrutiny.

This principle should be balanced with the principle of accessibility. That is, campaign disclosure rules should not create administratively burdensome and onerous requirements for candidates, elector organizations, or campaign organizers (which could limit accessibility). For instance, such rules might deter some potential candidates for standing for local elected office due to the complexity of financial disclosure. They could also act as a disincentive for some to obey the rules, thus negating benefits gained from a more comprehensive disclosure regime.

Flexibility and consistency

It is generally desirable for campaign finance rules to apply to all participants in local elections across the province. This is especially true for campaign disclosure rules as they are integral to the campaign finance system. While it is important that these rules are evenly applied to all local elections, this may not always accommodate the varying circumstances facing local governments or candidates. For instance, more onerous accounting requirements associated with more stringent campaign disclosure rules may not be appropriate for small campaigns where election participants spend relatively small amounts on their campaigns. However, providing flexibility in the rules for such communities or campaigns might raise questions about principles central to the campaign finance regime (i.e., given its importance, can the campaign finance disclosure system accommodate variation in campaign disclosure rules?)

B. Pressure points within the current disclosure system

A number of pressure points can be identified in the current campaign financing disclosure system. In particular, there have been concerns expressed about the disclosure of campaign organizers (third party participants); given its complexity, this issue will be addressed in a separate discussion paper. The discussion below focuses on other pressure points in the current campaign disclosure system.

1. Difficulties following and applying the disclosure rules

The current campaign finance disclosure system imposes a number of obligations on election participants. For example, the current legislation specifies who may accept contributions, and how contributions are to be made and recorded. It also requires that all monetary contributions be deposited in a dedicated campaign account, from which all expenses are paid. The rules also stipulate how to value expenses (e.g., use of in kind contributions and discounted goods and services) and require expenses to be recorded and reported according to prescribed categories.

Applying the current rules to campaign activities takes some thought and work. For example, the simple task of assembling and putting up signs with friends and taking them for pizza afterward requires expense entries for the value of the signs, the gas spent distributing them, and the food. If one of the friends' brothers donated the pizzas from his pizzeria, their fair market value would have to be estimated. One can easily imagine how busy individuals, unaccustomed to such reporting requirements, could make mistakes in this regard. This problem may be further amplified in situations where the candidate acts as his or her own financial agent.

Some say that the current rules are too complicated for some election participants, resulting in confusion and honest mistakes. There is some evidence that the current rules are not well understood by election participants and may lead to non-compliance in some cases. Some of the examples noted in the background illustrate this:

Summerland: In this case, it appears that lack of understanding regarding what constitutes a contribution to a candidate, what is permitted for anonymous contributions, and what are the obligations for an election organizer were factors leading to controversy after the 2008 election.

Vancouver: This situation, concerning the disclosure of debt by elector organizations, demonstrates confusion regarding the rules about campaign debts. There are currently rules about how campaign debts must be accounted for, and how they must be recorded – including the supplementary reporting requirements that require the reporting of any changes to campaign financing information after the filling of the disclosure statement.

Victoria: This case, involving a successful school trustee candidate failing to file a separate disclosure statement from a campaign organizer, demonstrates a lack of knowledge of filing obligations on participants and the relationship between candidates and campaign organizations.

These examples reflect serious situations. At the same time, they also indicate a relatively small number of examples of non-compliance. In 2008 local government and board of education elections, over 3050 candidates participated. Of the local government candidates, according to the Ministry's list of disqualified candidates, 53 candidates failed to file the necessary campaign finance disclosure statement.⁷

To reduce confusion and misunderstanding, advice is available. The Ministry produces a 'Candidate Guide', and a 'Campaign Organizer and Elector Organization Guide', both of which provide detailed explanation, advice and examples on campaign financing disclosure. Ministry staff are also available to provide advice to the public and to local government staff. The Ministry of Education also produces the 'School Trustee Election Procedures in British Columbia' for trustee elections. Additionally, the Local Government Management Association provides additional material and training opportunities for local

⁷ Under the legislation, local governments are required to provide public notice of candidates, elector organizations and campaign organizers that fail to file a campaign disclosure statement and to provide that information to the Ministry. The Ministry is required to maintain a publically available "disqualification list" of all those who are disqualified due to failure to file the required disclosure statement.

government election administrators. Some may say that such advice is not sufficient or not far reaching enough. Others would say that no system can ensure 100% compliance.

2. Disclosure requirements too onerous for small campaigns

Most provinces with mandatory local government campaign financing rules - Manitoba, Ontario, Nova Scotia, Newfoundland and Labrador and, should Alberta's proposed amendments be adopted, Alberta -- do not provide any exemptions for small campaigns from campaign finance disclosure requirements. In these provinces, the local government campaign financing rules -- including requirements about bank accounts, the recording and disclosing of contributions and expenses -- apply to all campaigns. Some of these jurisdictions allow for flexibility by allowing local governments to adopt more stringent standards or rules by bylaw. For example, Manitoba allows bylaws to address the issue of fundraising rules and auditor requirements. Quebec is the only jurisdiction that makes significant exemptions for small communities, with the campaign financing rules (including public financing) not applying to jurisdictions with a population under 5,000 and only requiring candidates in communities under 5,000 to disclose contributors who made donations totaling over \$100.

At the local level in BC, some have questioned whether detailed reporting requirements and separate campaign accounts are necessary for small campaigns that may involve only a few hundred dollars of expenditures and few or no contributions from anywhere other than the candidate's personal funds, or where candidates were acclaimed and did not mount election campaigns. This argument contends that the complexity these requirements create for small campaigns outweighs the public value of the disclosure and that the existing rules present a barrier to participation which may discourage people from running for local elected office. Therefore, they suggest establishing exemption thresholds, exempting smaller campaigns or smaller communities from the rules.

However, some do not support lessening or eliminating the disclosure requirements for some campaigns and contend that disclosure requirements are necessary even for the smallest of campaigns because the public needs disclosure to stay informed, to keep elected officials accountable, to prevent undue influence, and to ensure that all candidates obey the same rules. Those opposed to different disclosure standards for different sized campaigns also argue that if different thresholds for disclosure were to be set, it would be difficult to identify and sanction those who had exceeded thresholds but not disclosed because the records necessary for doing so would not exist.

To address some of the concerns in relation to smaller campaigns, changes were made to the separate campaign account requirement – the most often cited complaint regarding smaller campaigns. A recent amendment (2008) limited the obligation for an account to situations where monetary campaign contributions are accepted or campaign expenses incurred. This amendment recognized that in some communities, candidates do not mount campaigns and that a universal bank account requirement imposed a significant barrier in those cases – particularly in communities without a savings institution. However, concerns about bank accounts still persist. In Ministry monitoring of the 2008 election, the most commonly identified difficulty was in relation to bank accounts. Some may say that this shows that the campaign account requirement is still too burdensome. Others may see this as an opportunity to better educate prospective candidates and banks alike on how to administer campaign accounts.

3. Disclosure requirements not stringent enough

While some argue that the current rules are too burdensome, others argue that the current rules are not rigorous enough and need enhancing for disclosure to be meaningful. Areas of concern for those in favour of more rigorous rules include: auditing requirements for disclosure statements; disclosure requirements for nomination contestants; and annual reporting for elector organizations.

Audit requirements: At the provincial level, many jurisdictions require the appointment of an auditor as part of a candidate's nomination or party's registration and require audited statements if a certain threshold of contributions or expenses is reached. For example, provincially, BC requires audited statements for campaigns with election expenses of \$10,000 or more. Quebec (for parties with revenues exceeding \$5,000) and Ontario (for candidates who receive or spend in excess of \$10,000) have mandatory audit requirements at the local level. Alberta, in Bill 203 (awaiting proclamation), has proposed mandatory auditing for candidates at the local level whose campaign exceeds \$10,000 in contributions or expenses. Those in favour of fuller and more rigorous disclosure may maintain that audit requirements provide a higher degree of trust/integrity in the system and assist in compliance. Those opposed may note that requiring auditors for all campaigns could be problematic, especially for small campaigns and rural communities.

Nominee disclosure: At the provincial level, several jurisdictions have explicit rules regarding disclosure of contributions received and expenses incurred in relation to seeking the nomination/endorsement of a party (i.e., nomination contestants). However, BC is the only jurisdiction that requires nomination contestants who become candidates in local government elections to include financial information about their nomination contest in their campaign financing disclosure statement. Some have noted that BC's rules for nomination contestants at the local level are not as rigorous as those in place at the provincial level. Some assert that the lack of explicit disclosure rules similar to the provincial rules for nomination contestants may lead to non-compliance and/or may prevent full and meaningful disclosure.

Annual reporting: Annual reporting for parties is standard at the provincial level across Canada. However, most provincial jurisdictions do not recognize parties or elector organizations at the local level⁸ and only Quebec requires annual reporting by parties at the local level. Proponents of annual reporting note that it allows for disclosure on expenses and debts incurred outside of the election campaign period.⁹ They say that without annual reporting, full disclosure for elector organizations is not possible. In Vancouver, concern has been expressed about debt disclosure of elector organizations. While there are disclosure rules for campaign debts (debts incurred in relation to election expenses made during the calendar year of a general election), there are no disclosure rules for debts incurred outside this period. Annual reporting could address this gap. However, those against annual reporting may argue that imposing such reporting obligations on elector organizations that may have multiple

⁸ Only Quebec, BC and Nova Scotia recognize and regulate the participation of "parties", or party-like entities, at the local level. In BC and Nova Scotia, disclosure for "parties" is only required in relation to election campaigns.

⁹ Campaign disclosure statements only capture election expense in relation to an election campaign during the *calendar year* of the election for a general election, whereas campaign contributions must be included in campaign disclosure statements regardless of how far in advance or far after the election they have been given.

purposes is overly intrusive and burdensome (e.g., one that is primarily a social housing or ecological organization outside of its involvement in elections).

In general, those opposed to additional disclosure rules point to the burden that such rules place on election participants and note that this could lead to less participation, greater costs, and more non-compliance and therefore would make the campaign financing system worse, not better. Further, those opposed maintain that additional requirements will impose greater resource burdens for election administrators.

Those in favour of more disclosure suggest that additional educational and informational materials could be provided to help ease the burden that greater disclosure rules may place on electoral participants. They also maintain that the enhanced accountability resulting from greater disclosure rules, which helps prevent and/or identify undue influence and potential conflicts of interest, outweighs any disadvantages. They may also contend that the costs of campaigns, especially in larger municipalities (i.e., Vancouver), are increasing and that disclosure becomes more important with the greater amount of money involved.

4. Disclosure is too late

120 days is too long: Currently, campaign disclosure statements in local government elections are required 120 days after general voting day, with an additional 30 day late filing period on payment of a \$500 fee. Provincially, disclosure statements are required 90 days after general voting day, with an additional 30 day late filing period on payment of a \$500 fee. Those provinces with mandated local government campaign disclosure range between 60 and 210 days following general voting day and a few make provisions for late filing. Some might argue that the current local government disclosure period is too long and that if there are questions surrounding elected candidates' disclosure, and therefore eligibility to hold office, these should be resolved as early as possible before they participate in making key decisions respecting financial plans, etc., for the local government. Making these records available before such decisions are made would enable accountability and may assist elected officials in avoiding conflict (or perceived conflict) of interest situations. Those opposed to earlier disclosure may argue that the campaign finances are not settled until well after the election, when accounts become due and bills are issued. Requiring disclosure too early would entail multiple supplementary reports to update disclosure statements to accurately reflect the campaign financing. They maintain that this would be confusing to the public, would frustrate the very purpose of disclosure and would be administratively burdensome.

Disclosure during campaigns: Under current requirements, there is no campaign financing disclosure *during* election campaigns in BC or elsewhere in Canada. However, some maintain that disclosure is needed *during* the campaign in order to create greater incentives for fair play among election participants and to inform voters of candidates' support bases prior to election. Further, proponents of pre-election disclosure note that election administrators could use the information to monitor compliance and to correct minor complaints within hours or a few days. This approach may also allow for the development for other enforcement remedies besides disqualification (i.e., more administrative penalties).

Others might draw attention to the major challenges raised by pre-election disclosure requirements. Such requirements could impose additional burdens not only on candidates but also on election administrators who receive such disclosure, make it available, and potentially enforce compliance. Further, those concerned about pre-election disclosure hold that requiring disclosure during campaigns, when the focus is on campaigning and recording, may lead to greater mistakes in disclosure and therefore more non-compliance.

5. Better accessibility to disclosure statements is needed

Disclosure entails not only the supplying of information by election participants but also its dissemination. Effective dissemination requires not just ease of access but also ease of interpretation. To this end, the current rules require that contributions and expenses be classified and in some instances totalled by class or contributor. Local governments are required to make disclosure reports available for public inspection during office hours, and are able to provide additional access by means they deem appropriate¹⁰. Present practices amongst local governments range from full posting on the internet to keeping a single copy on file at city hall that may only be viewed there. While no Canadian jurisdictions currently require local governments to post campaign disclosure statements on the internet, Ontario, in Bill 212¹¹, is proposing to make internet posting mandatory.

Concerns have been expressed that election campaign finance reports need to be more accessible and easier to interpret. Access to information on campaign contributors enables voters to learn about the interests supporting various candidates. However, voters and the press have limited time and resources to access and draw conclusions from disclosure data and so they want it readily available and easily digestible (e.g., logically ordered, summarized, available on the internet, etc.). For example, Elections BC makes all provincial disclosure statements available on the internet and provides a searchable website database of campaign contributors; Elections Canada has a website database with search functions for the reports of candidates, registered associations, parties, and others.

In the B.C. local government context, some have called for standardized forms and internet posting requirements for local government. Others have said that there must be a centralized repository of municipal campaign financing disclosures for the entire province to facilitate research, media reporting, and general public access.

While few would argue against making disclosure records easier to access and interpret, there may be concerns about how that is done. Imposing additional requirements for the way in which disclosure statements are made and accessed may increase the complexity and expense of making disclosure for electoral participants and could impose greater resourcing requirements on election administrators (e.g., increased need for advice and more complexity for those tasked/concerned with enforcement). Additionally, while a centralized repository could increase access for some, it may limit access for others (i.e., records available only in a centralized location and on the internet could pose access barriers to people in rural areas without reliable internet access).

¹⁰ A 2008 amendment eliminated barriers to web posting and other forms of public access/dissemination.

¹¹ Bill 212 has been passed by the Ontario Legislature and is currently awaiting proclamation.

C. Other Considerations

Addressing pressure points in British Columbia's current local government campaign finance disclosure system would require careful consideration of not only the interplay between the core principles of transparency, accessibility, consistency and flexibility, but also other campaign finance elements. Disclosure requirements enable or at least support (and therefore must be operationally connected to) other elements of the system such as the treatment of expenses and enforcement. For example, if it were determined that the current disclosure requirements are too onerous or too lenient, any possible changes would need to be contemplated along with possible implications on the enforcement system (and vice versa).

Regional and campaign size variation could also be considered. The current local government disclosure rules are designed to function from Vancouver to Zeballos but it may be that candidates in different regions have unique needs and varying resource levels and the disclosure rules could recognize that variation (e.g., by including some level of local autonomy). Addressing campaign size variation would give rise to additional questions such as how to categorize campaigns (expense threshold or population base?). Furthermore, any changes to the existing disclosure system would have to be contemplated along with any resulting changes in the roles and responsibilities of key administrative players. For example, who receives financial disclosure and what happens to it once it is received (e.g., would there be additional burdens on administrators?)

Finally, the possible impact on boards of education elections must be considered when contemplating changes to the current campaign finance disclosure system (i.e., does it make sense to have more or less onerous disclosure requirements in boards of education elections? What difficulties might arise?).

DIRECTION QUESTIONS AND NEXT STEPS

The following questions are intended to assist the Task Force to determine whether it wishes to give further consideration to any aspects of campaign finance disclosure or its pressure points. If so, more research and analysis will be required.

Principles

- Is the present disclosure system achieving an appropriate balance between the public interest in transparency and a reasonable administrative burden for participants or elections administrators?
- Given that it is generally desirable for the same disclosure rules to apply to all participants across the province, are the present rules adequately flexible to accommodate various sorts of electoral campaigns?

Practical considerations

- Do any of the "pressure points" suggest that the present system is falling short of some of its objectives?
- How might one address such pressure points without making the disclosure system too costly or onerous?

Further work

- Have any pressure points been missed?
- Is further work required on any of the pressure points identified above? If so, which ones?

Appendix 1

Inter-jurisdictional Analysis of Campaign Finance Disclosure Rules

Feature	Alberta (Not in force)	Manitoba	Ontario	Quebec	Nova Scotia	Newfoundland
Who Discloses	Candidates	Candidates	Candidates	Parties Independent candidates (not affiliated with a party) in communities over 5000 must disclose expenses and contributions. Private intervenors – being an elector or group without legal personality that is composed of a majority of natural persons who are qualified electors. Intervenors must be authorized in order to incur certain forms of expenses (e.g., publicity expenses).	Candidates Associations – being an association of one or more people established to further the election of the candidate.	Candidates
What is Disclosed	<p>Contributions and Expenses:</p> <ul style="list-style-type: none"> total amount of contributions from contributors that did not exceed \$100; total amount contributed, together with names and addresses of contributors that exceeded \$100; and a list of campaign expenses. 	<p>Contributions and Expenses:</p> <ul style="list-style-type: none"> total amount of all contributions received and expenses incurred; an itemized list of campaign expenses; where a contributor has donated more than \$250, the name, address, and amount; information regarding loans. 	<p>Contributions and Expenses:</p> <ul style="list-style-type: none"> total amount of all contributions received and expenses incurred; an itemized list of campaign expenses; where a contributor has donated more than \$100, the name, address, and amount; information regarding loans. 	<p>Contributions and Expenses (note: exception for candidates in places under 5,000):</p> <p><u>Financial Report (annual report)</u>: required for parties and covers finances for the preceding fiscal year. It must contain an income statement consisting of:</p> <ul style="list-style-type: none"> a general statement of revenue and total expenditures the number and total amount of contributions of \$100 or less 	<p>Contributions only: the full name and address, of each contributor whose contributions received during the period since the previous election exceed fifty dollars in total and the amount of the total contributions by that contributor.</p> <p>Where a trust or fund is established to further the goals of a candidate or association and the</p>	<p>Contributions only: total amount of contributions received, the amount of contribution donated by contributors that exceeded \$100 and the names of those contributors. If no contributions exceeded \$100, the candidate is required to file a statement under oath giving the total amount of the</p>

Feature	Alberta (Not in force)	Manitoba	Ontario	Quebec	Nova Scotia	Newfoundland
				<ul style="list-style-type: none"> the number and total amount of contributions of over \$100 (including names, addresses and amounts); information about loans, fundraising and other matters. <p><u>For election reporting purposes</u> parties must provide detailed information respecting election expenses incurred during the campaign</p> <p>Authorized independent candidate in communities over 5000 must report:</p> <ul style="list-style-type: none"> all electors whose contributions exceed \$100 (name, address, amount); detailed listing of election expenses; information on loans and fundraising activities. <p>Candidates in communities under 5,000 only disclose contributions of \$100 or more (names and amounts).</p>	trust or fund is not controlled by an association or candidate, the names of contributors to the trust or fund shall be disclosed when a transfer is made from the trust or fund to either an association or candidate.	contributions received.
When and to Whom is the Information Disclosed	Must be filed on or before March 1 to the municipality .	Must be filed with the chief administrative officer . Municipalities determine by bylaw,	Must be filed with the clerk of the municipality by the last Friday in March following the election.	Authorized parties: The <i>financial report</i> must be submitted to the treasurer of the municipality by April 1 st of each year. If April 1 st falls within an election	Must be filed with the clerk of the municipality within 60 days after the regular polling day.	Must be filed with the Returning officer not more than 90 days after the election.

Feature	Alberta (Not in force)	Manitoba	Ontario	Quebec	Nova Scotia	Newfoundland
		the date by which the statement must be filed. It cannot be more than 210 days after the election.		<p>period, the report must be filed within 90 days of polling day.</p> <p>The <i>return of election expenses</i> must be filed with the treasurer within 90 days after polling day.</p> <p>Authorized independent candidates: the financial report and return of election expenses must be filed with the treasurer at the same time, within 90 days after polling day.</p> <p>Authorized private intervenors: the report of expenses must be filed with the treasurer within 30 days after polling day.</p>		
Compliance Tools (Auditing and bank account requirements)	<p>Audit: Candidates, where expenses or contributions exceed \$10,000.</p> <p>A council may, by by-law, require audited statements where contributions or expenses are \$10,000 or less.</p> <p>Bank Account: Required for all candidates. All contributions of money must be deposited in</p>	<p>Audit: A council may, by by-law, require election finance statements, and further statements to be audited</p> <p>Bank Account: Required for all candidates. All contributions must be paid into and all expenses must be paid out of the campaign account.</p>	<p>Audit: Candidates, where the total contributions received or total expenses incurred exceed \$10,000.</p> <p>Bank Account: Required for all candidates; must be exclusively for the purposes of the election campaign.</p>	<p>Audit: The auditor of an authorized party shall audit the financial report of the party if the revenues collected exceed \$5,000.</p> <p>Bank Account: It is not necessary to open such an account if the sums come exclusively from contributions made by an authorized independent candidate. However, all other contributions must be paid into an account.</p>	<p>Audit: N/A</p> <p>Bank Account: All contributions to a candidate shall be deposited in a separate account and be dealt with separately from the candidate's personal funds.</p>	N/A

Feature	Alberta (Not in force)	Manitoba	Ontario	Quebec	Nova Scotia	Newfoundland
	the account and money in the account may only be used for election expenses.					
Public Access	Must be available for public inspection.	Must be available for public inspection.	Must be available for public inspection. Proposed legislative changes will require disclosure statements to be available on website on the internet or in another electronic format (Bill 212 – awaiting proclamation).	Records are public.	Must be available for public inspection during regular office hours; specifies that this includes making copies on payment of reasonable cost of copying	Must be available for public inspection

Appendix 2: UBCM Resolutions Related to Campaign Finance Disclosure

2000 A6 Election Campaign Accounts

Text:

WHEREAS Bill 88 enacted wide-reaching changes to the Municipal Act, including the elections provisions which applied to the 1999 General Local Elections;

AND WHEREAS in rural areas of the Province, the positions for elected office are frequently filled by acclamation

AND WHEREAS in rural areas of the Province, it is not unusual for election campaigns to be conducted on a "zero" dollar expense basis:

THEREFORE BE IT RESOLVED that UBCM request that the Local Government Act be amended so that a candidate need not open a campaign account if the candidate declares that he or she will not be accepting campaign contributions, and where there is no campaign account, to remove the requirement to pay all campaign expenses from such an account.

Response:

MINISTRY OF MUNICIPAL AFFAIRS

The Ministry of Municipal Affairs is reviewing the 1999 local government election experience, including recording all issues raised in correspondence, surveying chief election officers, and hosting a clinic on this matter as a part of the 2000 UBCM. All of this input, including that contained in the resolution, will be considered in deciding what changes need to be made to elections legislation prior to the 2002 local government elections.

Legislation:

Local Government Statutes Amendments Act, 2008, s. 85.1

- Accounts only required if money is to be deposited or expenses to be paid.

2003 B55 Election Campaign Financing

Text:

WHEREAS transparency of elected officials' decisions is fundamental in building trust and confidence in how the public views its elected leaders;

AND WHEREAS corporations and unions do not cast a vote in local government elections;

AND WHEREAS the provincial and federal governments have passed election finance reform legislation;

AND WHEREAS local government officials must avoid potential conflict of interest, in order to maintain credibility as the key level of government:

THEREFORE BE IT RESOLVED that the Union of BC Municipalities work in cooperation with the provincial government to pass legislation addressing local government election finance reform, specifically prohibiting local government candidates from lobbying or accepting corporate or union campaign contributions

Response:

Not endorsed by the UBCM

Legislation:

N/A

2009 B103 **Requirement for Disclosure on “Other Voting” Campaigns**

Text:

WHEREAS matters forwarded for the opinion or assent of the electors (*Vancouver Charter*, Part II, Other Voting) do not require that interest groups campaigning for either the “yes” or “no” side of the voting disclose campaign contributions or expenses;

AND WHEREAS the public should be entitled to know the source, amount and nature of all contributions to these campaigns:

THEREFORE BE IT RESOLVED that the UBCM petition the provincial government to amend the *Local Government Act* and the *Vancouver Charter* to amend the definition of “campaign organizer” to explicitly apply to the provisions of Part II Other Voting;

AND BE IT FURTHER RESOLVED that any amendments to the disclosure laws be made before the 2011 general local elections.

Response

Referred to Elections Task Force

Legislation:

N/A