

Report of the Chief Electoral Officer on
**RECOMMENDATIONS FOR
LEGISLATIVE CHANGE**

MAY 2018

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Recommendations for Legislative Change

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May 7, 2018

Honourable Darryl Plecas
Speaker of the Legislative Assembly
Province of British Columbia
Parliament Buildings
Victoria, British Columbia
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Dear Mr. Speaker:

I have the pleasure to present the *Report of the Chief Electoral Officer on Recommendations for Legislative Change, May 2018*. This report is submitted to the Legislative Assembly in accordance with section 13(1)(d) of the *Election Act*.

Respectfully submitted,

Keith Archer, Ph.D.
Chief Electoral Officer
British Columbia

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INTRODUCTION

After every general election Elections BC reviews what went well and what could be improved in its administration of the event. This review includes consultation with stakeholders, including senior election officials, voters and non-voters, and political parties. Many of the improvements identified can be implemented through changes to administrative procedures and training, but some require legislative change.

The ability to change the Election Act lies solely with the Legislative Assembly. The Chief Electoral Officer's role is to follow the process outlined in the Election Act for making recommendations for legislative change.

This report highlights four specific issues Elections BC considers most deserving of consideration and debate, starting on page 3. The proposals related to these priority issues aim to improve the accessibility and efficiency of B.C.'s electoral process.

In addition to the four priority recommendations, this report also refers legislators to a small number of challenges in the Election Act that are largely technical in nature, but cause recurring business problems for Elections BC and/or our stakeholders. Brief explanations of these challenges and recommendations for resolving them are contained in the "Additional recommendations" section, starting on page 7.

The Election Advisory Committee

The *Election Act* establishes an Election Advisory Committee to advise the Chief Electoral Officer on the functioning of the Act, particularly regarding the provisions that relate to financing of the political process.

The Election Advisory Committee consists of:

- the Chief Electoral Officer, who chairs the committee,
- two representatives of each registered political party that is represented in the Legislative Assembly, and
- one representative of each additional registered political party that endorsed candidates in at least one half of the electoral districts in the most recent general election.

Members of the Legislative Assembly cannot be members of the Election Advisory Committee.

The Chief Electoral Officer is required to consult the Election Advisory Committee in a number of instances, including before making a recommendation to the Legislative Assembly to amend an Act. The Election Advisory Committee was consulted on April 18, 2018 regarding the recommendations contained in this report.

The members of the Election Advisory Committee at the time of consultation on this report are shown in the table below.

Table 1: Members of the Election Advisory Committee

BC Liberal Party	Donald Silversides Katy Merrifield
BC NDP	Jordan Reid Raj Sihota
Green Party of BC	Chris Pettingill Rita Fromholt

PRIORITY ISSUES AND RECOMMENDATIONS

Electoral administration issues invariably arise that cannot be resolved within existing legislation. Changes in voter behaviour strain processes that were not designed to accommodate increased volumes or heightened needs and expectations. By re-examining these processes in the context of meeting the changing needs of our stakeholders, we can find new opportunities for improvement that take us beyond what the existing legislation allows.

These are the four priority issues that Elections BC considers most worthy of attention.

Facilitating youth participation

Many different groups within society have a role to play to encourage voter turnout, including educational institutions, the media, political parties, elected officials, and community groups. As the non-partisan administrator of the electoral process, Elections BC's role focuses on accessibility and removing administrative barriers to voting. Elections BC does not take a position on whether or not the voting age should be lowered. As a matter of public policy, this decision rests with the Legislative Assembly.

From the administrative perspective, Elections BC recognizes that the accessibility of the electoral process to 18-year-olds who are newly eligible to vote could be improved through provisional voter registration for 16- and 17-year-olds. Not being registered to vote is an administrative barrier that makes it more difficult to participate in elections, and this is especially true for first-time voters and individuals who recently became eligible to vote.

The lowest voter registration rates are for young voters between 18-24 years of age, and there is a positive correlation between being registered to vote before General Voting Day and voting. In part this may be because registered voters receive important information from Elections BC during an election about where, when and how to vote.

Approaching youth before they graduate from high school would be an effective way to ensure they are registered to vote when they become eligible. Currently, voter registration is restricted to those at least 18 years of age, an age when many youth have left high school and it is more difficult for Elections BC to reach them with information about voter registration and voting opportunities.

Other jurisdictions have taken steps to address this issue by allowing provisional registration of otherwise eligible individuals under the age of 18. Nova Scotia and Ontario permit the Chief Electoral Officer to collect the registration information of 16- and 17-year-olds who may become eligible to vote. Quebec has a provisional register of potential voters who, unless they decline, are automatically added to the voters list when they turn 18. In Alberta, the Chief Electoral Officer can request directly from school boards the registration information of 16- and 17-year-olds for the purpose of provisionally registering them to vote. Bill C-76, currently before the House of Commons, establishes a register of future electors for 14- to 17-year-olds at the federal level in Canada. Australia and 16 U.S. states have addressed this issue by allowing provisional voter registration of 16- and 17-year-olds. This includes the state of California, in which 100,000 16- and 17-year-olds have preregistered to vote since a provisional voter registration law was enacted in 2016.

The Chief Electoral Officer recommends legislators consider allowing provisional registration of otherwise eligible individuals when they are 16 years of age. The provisional registration would become an active registration when the voter reaches voting age. Permitting early registration at 16 years of age would allow Elections BC to work with schools and the driver licencing program to ensure maximum exposure to the registration process for youth. Anecdotally many high school teachers have expressed support for this concept as it would allow meaningful action by their students in the context of civic education.

Improving the accessibility of registration opportunities for youth may have a positive, long-term effect on voter engagement and turnout.

Access to data sources

Electoral agencies across Canada increasingly rely on government data sources to ensure a high quality voters list. Elections BC currently has access to data from the Insurance Corporation of BC, BC Vital Statistics and Elections Canada.

However, while once a leader in this area, Elections BC has fallen behind in its ability to update the voters list in the most efficient and cost-effective manner. Election agencies in Alberta, Manitoba and Nova Scotia all have access to voter information held by any public body defined by those provinces' *Freedom of Information and Protection of Privacy Acts*, while Elections Quebec has access to personal information held by the provincial health insurance agency and Citizenship and Immigration Canada.

To ensure the most effective and efficient methods are available to maintain a high quality voters list, legislators may consider providing the Chief Electoral Officer with greater access to personal information (i.e. name, address, date of birth) held by public bodies for the purpose of updating the voters list. Any information accessed would only be used for electoral purposes (per section 275 of the *Election Act*).

Trialing new voting technologies and modernizing the voting process

Electoral agencies across Canada have begun introducing new voting technologies to increase the accessibility and efficiency of the electoral process, and meet identified challenges presented by the changing nature of election work. In Ontario's 2018 provincial election, paper ballots will be used but electronic poll-books (for real-time strike-off and reporting) and ballot tabulators (for more efficient and faster ballot counting) will be introduced. New Brunswick has been using a technology-enabled voting place strike-off system and ballot tabulators for provincial elections since 2010.

Technology was used to administer aspects of the voting process in B.C.'s 2017 provincial election to meet legislative changes to the *Election Act* that were enacted in 2015, namely the requirement to provide candidates with information about who voted after each day of advance voting. That said, many of the voting and counting processes established in the *Election Act* remain manual processes, and legislation limits the ability of Elections BC to adopt, even on a pilot project basis, new voting and counting technologies.

This report includes an appendix entitled *Voting Modernization in B.C.* that provides more detail on the context, issues, and opportunities associated with the prudent use of proven technologies to modernize how voting and counting are administered in B.C. This appendix includes proposals for how voting and counting could be improved through legislative change. The proposed model would allow Elections BC to introduce and adopt a variety of electoral technologies that would increase accessibility for voters with disabilities (e.g. "sip and puff" ballot marking devices), allow for province-wide, real-time voter strike-off and reporting, and enable absentee voting results to be reported on election night¹. The Chief Electoral Officer recommends that legislators take steps to amend the *Election Act* to allow for the implementation of the proposed model as outlined in the appendix to this report. This would include establishing a legislative committee to review the changes required to the *Election Act* and allow for the implementation of these changes within the next 3-6 years. Elections BC would require 18 to 24 months following the passage of legislation to implement any new voting model.

Elections BC endorses the recommendations of the 2014 Independent Panel on Internet Voting as described in the panel's recommendations report submitted to the Legislative Assembly that year. The panel recommended not implementing universal Internet voting for either local or provincial government elections in B.C. at this time. The panel also recommended the province go slowly on this topic, take a province-wide coordinated approach to Internet voting, and establish an independent technical committee, chaired by the Chief Electoral Officer, to evaluate Internet voting systems and support local jurisdictions that may wish to implement Internet voting.

¹ Under current legislation absentee ballots are counted 13 days after General Voting Day, during final count.

On-demand election calendar

The *Election Act* establishes General Voting Day as the 28th day after an election is called for all types of elections: fixed-date general elections (i.e. called in accordance with s. 23(2) of the *Constitution Act*), on-demand general elections (i.e. “snap” general elections), and by-elections. This 29-day campaign period works well for by-elections and fixed-date general elections. By-elections are small-scale events compared to general elections, so an uncertain Writ Day is not an issue in a by-election. Fixed-date general elections allow for efficient and cost-effective preparations. Pre-event preparations for a provincial general election are significant in scope, and include renting district electoral offices, shipping election supplies and equipment, and staff recruitment and training. Pre-event readiness is a legislated requirement because some *Election Act* activities, such as ordinary candidate nominations and voting, begin when the writs are issued.

For an on-demand provincial general election, a 29-day campaign period is too short. The Chief Electoral Officer may have no advance warning of when such an event will occur, and would be significantly challenged to secure office locations and ship supplies in a timely manner (despite instituting a higher overall state of readiness as may be necessary). Administrative costs would be significantly higher due to rush shipments and last-minute rentals. Further, with minimal forewarning, all candidates would likely only have the seven-day ordinary nomination period within which to correctly file their nomination papers.

Most Canadian provinces have longer campaign periods than B.C. Federally the minimum required campaign period is 36 days. Most provinces have a varying campaign period ranging on average from 29 to 36 days. Manitoba has enacted an increase of four days for their non-fixed-date general elections.

The Chief Electoral Officer recommends that legislators consider increasing the length of the campaign period in B.C. by adding four to ten days at the beginning of the election calendar for on-demand provincial general elections, such that General Voting Day would fall on the Saturday 32 to 38 days after the writs are issued. This would allow immediate election preparations to take place in the first few days after the writs are issued while keeping General Voting Day on a Saturday. A longer campaign period would enable more accessible candidate nominations and allow more time for shipping, staffing and communicating with voters. Voting would not begin until 28 days before General Voting Day, and candidate nominations would close 21 days before General Voting Day as they do now. Legislators may wish to consider adjusting expenses limits for candidates, political parties and third party advertising sponsors for an on-demand election held under an extended election calendar, though the Chief Electoral Officer does not take a position on this consideration.

ADDITIONAL RECOMMENDATIONS

The additional recommendations in this section are largely technical in nature and are organized by area of administration.

Additional recommendations – electoral operations

Registration of voters who will turn 18 on or before General Voting Day (s. 31(1))

Section 31(1) establishes who may register as a voter. For fixed-date general elections, individuals who will be 18 years of age on or before General Voting Day but who are not 18 prior to the writs being issued are able to register once the election is called. Individuals who do not meet the other qualifications to register and vote are not able to register until they are fully qualified, even though they will meet those qualifications by General Voting Day. This prevents a number of future eligible voters who are becoming engaged in the electoral process from registering other than in conjunction with voting.

Recommendation:

Amend section 31 to permit individuals who will be fully qualified as of General Voting Day for a fixed-date election to register prior to meeting those qualifications, but no earlier than 90 days before the expected date the election is called.

Residential address of imprisoned individuals (s. 32(4))

For the purposes of voting, individuals imprisoned in penal institutions are not considered to be residents of that institution, but rather can choose as their residence either a place they were resident before being imprisoned, or a place where their spouse, parent, or dependent is resident. For some incarcerated voters, however, this creates a barrier to participation because they were of “no fixed address” prior to being arrested or have no relatives in B.C. Federal election laws establish that if incarcerated voters do not have another address, they can use the address of either the place they were arrested or the place of their court trial.

Recommendation:

Amend 32(4) to include the place of arrest or trial as residence options for incarcerated voters.

Special voting areas (s. 98(3)(c))

Section 80(4) was amended to refer to site-based voting areas rather than special voting areas. This clause was not amended at the same time and now refers to an undefined term.

Recommendation:

Replace reference to a special voting area with reference to a site-based voting area.

Individual assisting a vote by mail voter (s. 109)

The *Election Act* anticipates that voters may need assistance marking their ballot due to physical disabilities or difficulties with reading or writing. Section 109 provides for an election official or another individual accompanying the voter to provide this assistance and establishes criteria to ensure that the integrity of the vote is maintained. However, there is no similar provision that enables an individual to assist a voter with the same limitations mark their ballot and complete their certification envelope when the voter is voting by mail under section 106. When Elections BC has administered vote by mail referendums, the associated regulations provided for individuals needing assistance when completing a vote by mail package. These provisions should be added to the *Election Act* to address this oversight.

Recommendation:

Add a new section 109.1 to permit an individual to assist a voter who is voting under section 106 (vote by mail). The wording of the new section could be identical to section 12 of the HST (Harmonized Sales Tax) Referendum Regulation.

Absentee ballots not placed in secrecy and certification envelopes before being placed in ballot box (s. 120 (1))

Section 120 establishes the process that must be followed by voting officers for the initial count of votes on election night. Other than any certification envelopes cast under absentee provisions, all remaining ballots must be considered for counting (absentee ballots are removed from the ballot box, kept separate and unopened, and considered at final count). During the 2017 Provincial General Election, 16 CEO Orders were issued to cover 41 instances where election officials administering absentee voting placed a voter's ballot directly into the ballot box instead of being first sealed in secrecy and certification envelopes and then put into the ballot box. Typically election officials notice their error right after the ballot has gone into the box, they are holding the associated envelopes, and the loose ballot is the only such ballot in the box that is not in a secrecy and certification envelope. The Orders allowed election officials to find the single, loose ballot at initial count and insert it properly in the envelopes, such that it can be correctly considered at final count. Without these Orders a loose ballot cast under an absentee provision could not be correctly counted. Amending section 120(1) to give the voting officers the ability to make these corrections administratively would allow these otherwise validly cast ballots to be considered without necessitating a CEO Order.

Recommendation:

Amend s. 120(1) by adding a subsection that permits the voting officer to insert an election ballot into its associated secrecy and certification envelopes at initial count, if it is the only loose ballot of its type in the ballot box.

Rejection of secrecy envelopes containing more than one ballot (s. 135(2)(a))

Section 135 establishes the criteria under which secrecy envelopes are opened or resealed. If a secrecy envelope contains more than one ballot it must be resealed, set aside, and not considered further at final count. During the 2017 Provincial General Election, four CEO Orders were issued to cover 12 instances where election officials inadvertently issued two write-in ballots to absentee voters, not noticing that the ballots were stuck together. The Orders allowed for the district electoral officer (DEO), during preparations for final count, to open the secrecy envelope and determine if both ballots were marked. If only one was marked, the DEO set aside the blank ballot and only counted the marked ballot. If both ballots were marked, the secrecy envelope was resealed and neither ballot was counted. If these Orders

had not been issued, those secrecy envelopes would have been set aside and not counted, even if the voter had not noticed both ballots were stuck together and only marked the top ballot. Amending section 135(2)(a) to give discretion to the DEO in these circumstances would allow them to be dealt with administratively, rather than through a CEO Order.

Recommendation:

Amend section 135(2)(a) to permit the DEO, when they find more than one ballot in a secrecy envelope, to first inspect the markings on those ballots (taking care to preserve the secrecy of the vote), and only be required to reseal the secrecy envelope if more than one ballot has been marked by a voter.

Candidate nomination deposit (s. 155)

Section 55 requires that nominations be accompanied by a deposit of \$250. If a candidate receives at least 15% of the total votes accepted, the nomination deposit is refunded. The Ontario Superior Court of Justice has declared that a similar provision in the Ontario *Election Act* was invalid in that it violated section 3 of the Canadian Charter of Rights and Freedoms, while the Alberta Court of Queen's Bench declared that the \$1,000 nomination deposit required by the *Canada Elections Act* was similarly invalid (Elections Canada has now uniformly applied this decision for all candidates in Canadian federal elections).

These rulings pose a risk that a similar challenge to the B.C. legislation could be successful. Although the number of candidates in B. C. elections is relatively stable, the nomination requirements have been cited by some individuals as a potential barrier to their candidacy. Seeking election to a provincial legislature is a constitutional right of citizenship, and nomination requirements must be considered carefully in that context. Many jurisdictions in Canada now refund nomination deposits based on compliance with financial disclosure requirements.

Recommendation:

Legislators may wish to consider eliminating the nomination deposit or amending the basis upon which it is refunded.

Access to rental property for canvassing purposes (Part 5, Division 3)

Section 30(2) of the *Residential Tenancy Act* prohibits landlords from unreasonably restricting access to residential property by candidates or their authorized representatives who are canvassing electors or distributing election material. The legislated provision related to access by candidates to residential rental property would be more accessible if it was in the *Election Act* as candidates look to the *Election Act* for direction in this regard.

Recommendation:

Add a section in the *Election Act* that guarantees access to rental properties covered by the *Residential Tenancy Act* by candidates or their agents during a campaign period for the purpose of campaigning.

Access to strata properties for canvassing purposes (Part 5, Division 3)

Section 30(2) of the *Residential Tenancy Act* prohibits landlords from unreasonably restricting access to residential property by candidates or their authorized representatives who are canvassing electors or distributing election material. Candidates do not have such a right of access to other property, such as strata units, and find it difficult to campaign or canvass effectively in strata properties.

Recommendation:

Legislators may wish to consider preventing strata corporations from passing bylaws that prevent access to strata properties by candidates or their agents during a campaign period for the purpose of campaigning. Strata corporations could restrict such activity from common areas, but access to individual properties within a strata development could be determined by the property owners as is done in other residential properties.

Accepting ordinary nominations on Writ Day (Sched., Form 1)

The writ of election establishes the time and dates for candidate nominations. Since the establishment of fixed-date elections and changes to the ordinary nomination period, the reference to a specific time on the writ when district electoral officers (DEOs) shall accept ordinary nominations is inconsistent with the requirements of section 56(1)(a) and 57(8). The effect is that DEOs are required by the writ to accept nominations retroactively to 9 a.m. on the day the writ is issued, although s. 56(1)(a) specifies that nominations are to be accepted “between the time the election is called and 1 p.m. on the 7th day after the election is called”. This incongruence has caused confusion amongst DEOs.

The writ bears the Great Seal, but does not provide a signature line to countersign the seal as required by the Ministry of Provincial Secretary and *Government Services Act*.

Recommendation:

Remove reference to 9 a.m. on the writ as established in Form 1 of the Schedule to the *Election Act* to clarify that ordinary nominations are to be accepted by a DEO after the election has been called. It should be noted that while the *Constitution Act* establishes when a fixed-date election will be held, the Lieutenant Governor’s authority is not diminished and a writ may not be issued on the day contemplated by that Act.

Amend the form of the writ to include a signature line for the Attorney General to countersign the Great Seal.

Electoral district name on write-in ballot stub (Sched., Form 3)

The write-in ballot in the Schedule to the Act has a space for the name of an electoral district on the ballot stub. The Act does not specify what the intended purpose of that field is - the electoral district in which voting is taking place, or the electoral district of residence for the voter. This has created confusion among election officials, and does not serve an administrative purpose.

Recommendation:

Remove reference to electoral district from the stub of the write-in ballot (Form 3) in the Schedule to the Act.

Additional recommendations – funding and disclosure

Responsibility to disclose specified fundraising function information (s. 185.02(1))

No later than seven days before the date of a specified fundraising function, the organization or individual who plans to hold the function must provide certain information to the Chief Electoral Officer (CEO) and to the financial agent of the political party, candidate, leadership contestant or constituency association on whose behalf the specified fundraising function will be held. The financial agent should be required to submit this information, rather than someone else who may hold a fundraising function. This is consistent with a financial agent's other responsibilities. Section 186(1) stipulates that political contributions must be made to a financial agent or an individual authorized in writing by the financial agent. Fundraising functions are designed to collect political contributions.

Furthermore, some of the specified fundraising function information required by s. 185.02 is also required to be filed in the annual and/or election financing report of the entity filed by the financial agent.

Financial agents may appoint one or more deputy financial agents who could also file the specified fundraising function information.

Recommendation:

Amend s. 185.02(1) to require the financial agent to provide the required information for specified fundraising functions to the CEO.

Political contributions to unaffiliated candidates (s. 186.01)

Eligible individuals must not make political contributions that have a total value greater than the applicable amount. The following have applicable amounts:

- (a) any one registered political party, the candidates of that political party, the constituency associations of that political party and the nomination contestants of that political party
- (b) an independent candidate and the constituency association that supports the independent candidate
- (c) an independent candidate who is not supported by a constituency association, and
- (d) each leadership contestant.

There is no applicable amount for candidates who are representing an unregistered political party.

Recommendation:

Amend s. 186.01 to include candidates who are representing an unregistered political party, not just those who are independent or representing registered political parties.

Nomination contestant political contribution information (s. 186.01(2)(a))

Political contributions to any one registered political party, including the candidates, constituency associations and nomination contestants of that political party, are limited to \$1,200 annually. However, only successful nomination contestants, who actually become candidates, are required to file political contribution information with Elections BC. The CEO has a duty under s. 12 to enforce the *Election Act*. Since the contribution limit applies to the “party family”, including all nomination contestants, it is necessary to review all contributions to the “party family” to ensure the limit is not exceeded. Without the political contribution information from unsuccessful nomination contestants, the CEO will not be able to ensure compliance with the Act.

Recommendation:

Add a section to Division 6 – Reporting, that requires all nomination contestants to file a report of political contributions received.

Redaction of addresses on third party advertising sponsor disclosure reports (s. 250)

Section 244 requires third party sponsors that sponsor election advertising with a total value of greater than \$500 to file an election advertising disclosure report. Section 245 sets out what information must be included in a disclosure report. That information includes the full name and address of each contributor who made one or more sponsorship contributions that have a total value of more than \$250 (section 245(3)(a)).

Section 250 requires that information filed under Part 11, which includes the disclosure report, be available for public inspection. Section 250 does not provide for the redaction of contributors' addresses from the public inspection copies of third party advertising disclosure reports.

This is not consistent with provisions in s. 162(2), 209(6) and 211(5) which specifically state that public inspection copies of election financing reports of candidates and leadership contestants “...must not include the address of a contributor.”

Recommendation:

Amend s. 250 to state that the information available for public inspection must not include the address of a contributor.

Publication of election financing report summaries (s. 215)

Section 215 requires the CEO to publish a report that includes summaries of information included in election financing reports, election expenses limits for candidates and registered political parties, and a summary of information included in election advertising sponsor disclosure reports. Preparing and printing a summary of election financing information is redundant and costly. The detailed reports are available on the Internet within a week of a filing deadline but the published summary is not available until several months later. Furthermore, due to the timing of the publication, the published summary reflects the information reported in the original election financing reports and does not include subsequent amendments. The usefulness of the published summary is minimal at best.

Recommendation:

Repeal the subsections that require the publication of summary election financing and election advertising information.

Monetary penalties for specified fundraising functions (s. 220.03)

Section 220.03 requires the CEO assess a monetary penalty against a major political party, candidate, leadership contestant or registered constituency association, if they fail to provide the required information respecting a specified fundraising function under 185.02(1), (2) or (3).

The obligation to disclose the information is placed on the individual or organization that plans to hold a specified fundraising function.

Section 220.03 requires a monetary penalty if a major political party, candidate, leadership contestant or registered constituency association is determined to be non-compliant and does not refer to the individual actually required by s. 185.02 to disclose the information.

This leaves an enforcement gap. An individual could plan a specified fundraising function, and would be required by section 185.02(1), (2) and (3) to disclose information about the event, but there would be no enforcement mechanism if they fail to do so.

Recommendation:

Modify section 220.03 to allow for monetary penalties against an individual or organization.

Third party sponsor disclosure reports (s. 243.01)

Third party sponsors that sponsor election advertising with a total value greater than \$10,000 must file an initial disclosure report that includes information on sponsorship contributions made by contributors who have made total contributions of more than \$250 since the most recent general election.

Between the date of the initial disclosure report and General Voting Day, subsequent disclosure reports are required within 14 days of the third party sponsor receiving a sponsorship contribution from a contributor who makes sponsorship contributions over \$250.

A subsequent disclosure report must include information on each contributor who, in total, made sponsorship contributions with a value of more than \$250 “...since the date of the initial disclosure report.”

Since the subsequent disclosure report only needs to include information on contributions over \$250 made since the date of the initial disclosure report, contributions received up to the date of the initial disclosure report and contributions received after the initial disclosure report are not combined.

This means that contributors who give \$250 or less before the initial disclosure report and new contributions totaling \$250 or less between the initial disclosure report and General Voting Day are not disclosed until the election disclosure report is filed, up to 90 days after General Voting Day, even if the total value of sponsorship contributions given is more than \$250.

For example: John gives \$220 before the initial disclosure report. His contribution is not disclosed in the initial disclosure report because it is not over \$250. He then gives another \$220 before General Voting Day. Again, his contributions are not disclosed in the subsequent disclosure report because he has not given more than \$250 “since the date of the initial disclosure report.”

Likewise, if a contributor gave more than \$250 as of the date on the initial report, and then an amount less than \$250 after the initial report, the additional contribution will not be disclosed until after the election disclosure report is filed after General Voting Day.

Recommendation 1:

Amend section 243.01(5)(a) to require the subsequent disclosure report to include all contribution information from any contributor whose total sponsorship contributions that have not been previously reported under section 244 have a value of more than \$250. This will ensure that significant (more than \$250) contributions made before General Voting Day are disclosed in the initial and subsequent disclosure reports.

Section 244 requires third party sponsors that sponsor election advertising with a total value greater than \$500 to file an election disclosure report in accordance with s. 245. The report is due within 90 days after General Voting Day and must include information about sponsorship contributions. Section 245 requires that the election disclosure report include information on sponsorship contributions "...not previously reported under section 244..." Thus, any political contributions received between General Voting Day and the date of the election disclosure report must be included in the report.

In a subsequent election, if the third party sponsor reaches the initial disclosure report threshold, the initial disclosure report for that election must include sponsorship contributions made by contributors who have made total contributions of more than \$250 "...since the most recent general election".

Therefore, contributions accepted between General Voting Day and the filing of an election disclosure report under s. 244 must be included in both the s. 244 election disclosure report for that election and in the s. 243.01 initial disclosure report for the subsequent election.

For example: If John gives a sponsorship contribution of \$260 the day after General Voting Day, that sponsorship contribution must be included in the election disclosure report. If the third party sponsor conducted more than \$10,000 in election advertising in a subsequent election, John's \$260 sponsorship contribution must also be reported in the initial disclosure report for the subsequent election.

Such double-disclosure of contributions related to two separate elections will be confusing for voters, the public, third party sponsors and other users of the disclosure reports.

Recommendation 2:

Amend section 243.01(3)(a) to require the initial disclosure report to include contribution information from any contributor whose total sponsorship contributions that have not previously been reported under section 244 have a value of more than \$250. This will ensure that contributions disclosed in previous election disclosure reports are not reported again in initial disclosure reports filed for future elections.

Time limit for laying an information (s. 252(2))

The Act establishes the time limit for laying an information respecting an offence as one year after the facts on which the information is based first came to the knowledge of the CEO. Investigations can sometimes be very complex and lengthy, making it difficult to meet this time limit.

Recommendation:

To permit thorough investigation and sufficient time to commence prosecution of offences, amend s. 252(2) by extending the time limit for laying an information from one year to two years after the facts on which the information is based first came to the knowledge of the CEO.

Production of information and third party advertising platforms (s. 276)

Section 276 gives the CEO the authority to make copies of and inspect the records of political parties, constituency associations, candidates, leadership contestants, or an individual or organization that was required to file an election advertising disclosure report.

The section does not explicitly give the CEO the authority to order the production of information. Section 76 of the *Local Elections Campaign Financing Act* does give the CEO that explicit authority in the local government context. The lack of clarity can cause unnecessary confusion, and could lead to unnecessary court action to obtain the required information.

In addition, the CEO's authority to issue a production order should also apply to advertising platforms or forums that an advertising sponsor may have used, in addition to the entities listed in section 276 (2) of the *Election Act*. Currently, it can be difficult to identify the sponsor of election advertising, even when we know on which platform it was advertised. One of the most common modern platforms, Facebook, has told Elections BC that they would not release the identity of the advertisers, or even confirm that an organization had paid to place a suspected advertisement, without a statutory or judicial order.

Recommendation:

Amend section 276 to add the explicit power to order the production of information, similar to section 76 of the *Local Elections Campaign Financing Act*.

Ensure the power to order production of information is extended to advertising platforms or forums, such as Facebook.

Candidate personal election expenses subject to contribution limit (s. 186.02)

Section 203(1)(b) establishes that personal election expenses of a candidate are not subject to the election expenses limit (personal election expenses are defined in section 183(4)).

Section 180(4) establishes that the amount of money, but not the value of any property or services, provided by a candidate to their own campaign is a political contribution.

Section 186.01 creates contribution limits and s. 186.02 sets out which political contributions are not to be included as political contributions subject to the contribution limit.

Although personal election expenses of a candidate are not subject to the expenses limit, any contributions received to pay for such expenses are limited, including contributions of money from the candidate.

A candidate who uses their own money to pay for personal election expenses is essentially penalized as to how much of their own money they can spend on what may be a necessary expense.

Recommendation:

Amend section 186.02 to include money that a candidate contributes to their own campaign that is used for personal election expenses.

Supplementary financing report late filing penalty (s. 221, 222)

Section 209 requires financial agents of candidates to file financing reports after an election. Section 212 establishes that a supplementary report must be filed if the financial agent or candidate becomes aware that the original report was incomplete or inaccurate, or if information contained in it has changed. Section 221 establishes significant penalties if a financing report required under section 209 is not filed, but does not establish penalties for failure to file a supplementary report required under section 212.

Section 211 requires financial agents of leadership contestants to file financing reports after the contest. Section 212 establishes that a supplementary report must be filed if the financial agent or contestant becomes aware that the original report was incomplete or inaccurate, or if information contained in it has changed. Section 222 provides for penalties if a financing report required under section 211 is not filed, but does not establish penalties for failure to file a supplementary report required under section 212.

Recommendation:

Amend the wording in section 221(1) from "...the election financing report under section 209..." to "...an election financing report under Division 6 of this Part."

Amend the wording in section 222 (1) from "...the contestant financing report under section 211..." to "...a contestant financing report under Division 6 of this Part."

Nomination contestant surplus funds (s. 186(6))

Transfers of money, goods or services are only permitted between candidates, constituency associations, political parties and leadership contestants. There are no provisions for surplus funds from a nomination contestant to be transferred to either a candidate or political party, nor does the Act provide for how those funds should be handled. In the absence of specific requirements regarding the disposal of such surplus funds, the funds become the property of the nomination contestant, who may keep the funds or use them for other purposes. However, they cannot give the funds to their own campaign, the political party, a constituency association or a candidate except as a political contribution subject to the contribution limit.

Recommendation:

Amend section 180(6) to allow nomination contestants to transfer surplus funds from the contest to either their election campaign (if they are the successful contestant) or to another candidate or the party (if they are not the successful contestant).

Appointment of auditor for third party sponsors (s. 245.01(1))

Section 245.01 requires third party sponsors who sponsor election advertising with a total value greater than \$10,000 to appoint an auditor and file an audited election advertising disclosure report.

Section 213 requires election financing reports filed under Part 10 (by political parties, constituency associations, candidates and leadership contestants) to be audited if the value of political contributions, election expenses or contestant expenses is equal to or greater than \$10,000. The inconsistency in the audit threshold (greater than \$10,000 vs. \$10,000 or greater) causes confusion amongst filers and the public.

Recommendation:

Make the sections consistent by amending s. 245.01(1) to read, "...total value equal to or greater than \$10,000..."

Regulated forms (s. 207, 208, 209, 210, 211, 212, 245)

The CEO has authority to make Regulations under the *Election Act*. The Act establishes that some reports, applications and other information must be in the form prescribed by Regulation. Other sections establish that reports, applications and other information must be in the form specified by the CEO. Regulations have a considerable administrative overhead for Elections BC and other governmental organizations. For consistency and efficiency, it would be preferable that the Act be standardized and that the CEO specifies forms rather than requiring a Regulation.

Recommendation:

Replace references to “the form prescribed by regulation” to “the form specified by the CEO”.

This would be consistent with the approach taken by the *Local Elections Campaign Financing Act*.

Candidate nomination deposit refund and eligible election expenses reimbursement thresholds (s. 55(2) and 215.04(4)(b))

A candidate must receive at least 15% of total valid votes in their electoral district to have their nomination deposit refunded and 10% of total valid votes to be eligible to have their eligible election expenses reimbursed – this could be confusing for candidates who receive more than 10% but less than 15% of total valid votes. It would be preferable to have the same threshold of valid votes for both the nomination deposit refund and election expense reimbursement.

Recommendation:

Amend either s. 55(2) or 215.04(4)(b) to make the thresholds equal.

Registered political party names (s. 156(2)(c))

A political party must not be registered if, in the opinion of the CEO, its name or any other form of identification is likely to be confused with the name of another political party that was registered at any time during the previous 10 years. There are currently 59 parties that are registered or were registered in the past 10 years. The majority of these parties (31) never ran a candidate for election and so their name never appeared on a ballot. New political parties find it increasingly difficult to find suitable names that are sufficiently different from the names of previously registered political parties.

Recommendation:

Amend section 156(2) to allow a political party to be registered using a name of a political party that has been deregistered for at least four years, if the party name was never used on a ballot.

10-year period expired (s. 156(3))

The *Election Act* came into force in 1995. Section 156(3) only applied to the 10 years after the section came into force (this section outlines prohibitions regarding political party names and other identifications that applied during this period). As the 10 year period has now passed, this provision is no longer required.

Recommendation:

Repeal s.156(3) as it is no longer required.

Disqualification of financial agents (s. 176)

The Act establishes who is disqualified from acting as financial agent for a registered political party, registered constituency association, candidate or leadership contestant. A financial agent who fails to file reports required by the *Election Act* may later become the financial agent of another entity. Individuals who do not meet their responsibilities as a financial agent should be disqualified from acting as a financial agent in the future.

Recommendation:

Amend section 176(1) to include an individual who failed to file any report required under the *Election Act* or who was the financial agent of an entity that failed to file a financing report in accordance with the *Election Act*.

Filing deadline clarification (s. 220)

An annual financial report of a registered political party or registered constituency association may be filed late if a \$100 late filing fee is paid. Such reports may be filed “before June 30.” “Before June 30” means the report must be filed on or before June 29. Despite Elections BC’s attempts at clarification, this causes confusion to financial agents of parties and constituency associations who read the section to mean a report can be filed on June 30. June 30 is a more logical deadline than June 29.

Recommendation:

Amend s. 220(5)(a) to read “by June 30” rather than “before June 30.”

Small scale election advertising threshold (s. 239(1))

Section 239(1) prevents an individual or organization who is not registered, from sponsoring election advertising. The threshold that requires an individual or organization to register is a qualitative analysis of whether there is a sponsorship relationship. This is more difficult to investigate and enforce than a quantitative threshold such as the \$500 threshold in the *Canada Elections Act*.

Recommendation:

Change the threshold for registration to a quantitative measure, similar to the *Canada Elections Act*.

Violation Ticket Administration and Fines Regulation

The Violation Ticket Administration and Fines Regulation under the *Offence Act* allows enforcement officers to issue violation tickets for specified offences. Currently, the only enforcement options open to Elections BC are either via a monetary penalty or a long form information prosecution. It is not unusual for Elections BC to investigate a lower level offence under the *Election Act*, where it would be more appropriate to proceed by way of violation ticket than long form information. Allowing Elections BC to issue violation tickets for offences would provide a bigger tool box for enforcement activities, and a broader range of responses.

Recommendation:

Amend the Violation Ticket Administration and Fines Regulation to allow the issuance of violation tickets of up to \$500 for all *Election Act* offences.

Additional recommendations – *Recall and Initiative Act*

Authority to make Regulations (s. 171)

The CEO has limited authority to make Regulations under the *Recall and Initiative Act*, and then only with respect to the conduct of an initiative vote. All other Regulations under that Act are made by the Lieutenant Governor in Council after consultation with the CEO. This is inconsistent with the powers of the CEO under the *Election Act*, which establishes authority for the CEO to make all Regulations under that Act after consultation with the Election Advisory Committee. Independent administration and oversight of electoral matters is a principle of democratic electoral processes. To remove any perception of political interference in the process, it would be appropriate for the CEO to have exclusive authority to make Regulations in relation to the recall process. Legislators could consider amendment to section 171 of the Act to establish authority for the CEO to make Regulations in relation to the recall process.

Recommendation:

Amend section 171 of the Act to establish authority for the CEO to make Regulations in relation to the recall process.

Recommendations included in the Report of the Chief Electoral Officer on the Recall Process in British Columbia, November 2003

In November 2003, the Chief Electoral Officer made a report to the Legislative Assembly regarding the recall process in British Columbia. The report identified a number of issues that had been identified with the existing legislation, and contained 20 recommendations for amendments to the Act. To date, only minor amendments have been made as a consequence to amendments to the *Election Act*, and the issues raised in the 2003 report have not been addressed. The CEO recommends that legislators consider amendment of the *Recall and Initiative Act* to address the issues identified in the 2003 report of the CEO.

APPENDIX:

VOTING MODERNIZATION IN B.C.

This appendix provides more detail on the context, issues and opportunities associated with using technology to modernize the voting and counting processes used in provincial general elections in British Columbia. One of the Chief Electoral Officer's priority recommendations is for legislators to take steps to amend the *Election Act* to allow for the implementation of the administrative model proposed in this appendix. This would include establishing a legislative committee to review the changes required to the *Election Act* and allow for the implementation of these changes within the next 3-6 years. Elections BC would require 18 to 24 months following the passage of legislation to implement any new voting model.

The key benefits to implementing the proposed model are:

1. Better voter service through a “bank-teller” voting place model
2. Close to real-time participation data from all voting opportunities
3. Cost savings through a more efficient staffing model
4. Maintaining the accessibility of the current system (voters can vote at any voting place) while eliminating the need for the final count of absentee ballots 13 days after General Voting Day. All votes would be counted on election night.

Background

Elections are fundamental to the health of our democracy and they must be administered fairly, impartially and with integrity. For these reasons, most jurisdictions have very prescriptive legislation that governs precisely how elections are administered, specifying everything from the staffing model to the form of the ballot.

The model presented here envisions changes to the way we administer voting and counting in B.C. and will require amendments to the *Election Act*. With a referendum on electoral reform pending in 2018, there is the potential that the next provincial general election in B.C. will be administered under a new electoral system. The modernization principles and approach to voting administration presented here would apply to any electoral system that British Columbians may choose in the 2018 referendum. The framework used to establish voting and counting processes operates independently from how votes translate into seats in the Legislative Assembly. This proposal focuses on when and where voters can vote, how ballots in voting places are provided to voters, how we ensure voters only vote once, and the processes for counting ballots and reporting results.

In considering changes to voting and counting processes, we start from the position that British Columbians need to be served by a model that:

- is accessible to all voters, including those with disabilities
- serves voters efficiently and makes effective use of tax dollars
- promotes compliance with procedures that ensure electoral integrity
- produces timely, accurate and trusted results
- provides timely and accessible voter participation information to candidates

Current system - context

The key elements of our current voting and counting model were designed a century ago and optimized to serve a smaller population with markedly different expectations than voters and candidates today. The system was also developed at a time when paper forms and manual labour were the norm and considered best practices for ensuring the integrity of the vote.

Much has changed since this model was developed. Technological advancements have revolutionized how services are delivered by the private and public sectors. Across Canada, electoral agencies are exploring how technology and process innovation can be applied to improve the basic, in-person, paper-based voting and counting systems that Canadian jurisdictions from coast to coast to coast share.

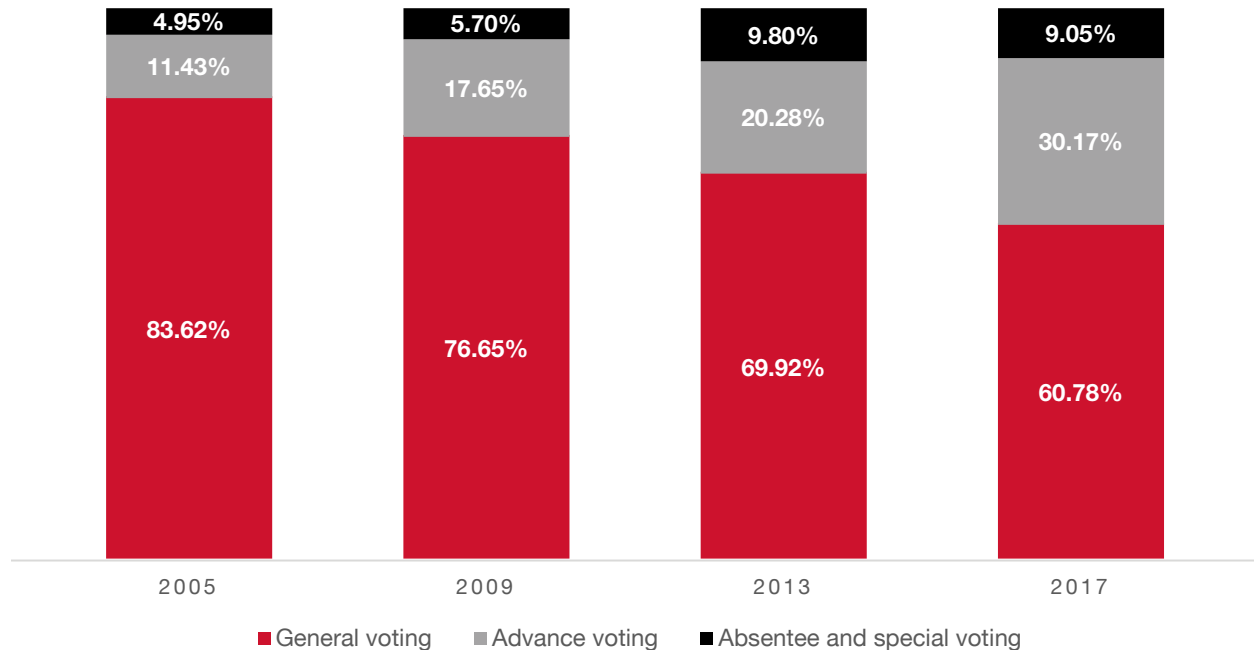
While B.C.'s current model of voting and counting is similar to others in Canada, it is unparalleled in terms of the access it offers to voters. Uniquely, from the day the election is called until the close of voting 28 days later, B.C. voters have opportunities to cast a ballot at any voting opportunity established in the province. This focus on accessibility is what defines the B.C. model and is a feature that voters appreciate and expect.

However, since the model was developed before the widespread use of computerized processes in election administration, it was necessary to develop relatively complex paper-based procedures to allow for absentee voting, including delaying the count of absentee ballots until 13 days after election night to ensure that absentee voters did not vote more than once; in essence to ensure the integrity of the vote. These two features of the current system – procedural complexity and a delayed count – were the trade-offs required to achieve a high level of accessibility.

Current system - issues

Over the years, convenience voting (i.e. advance and absentee voting) has become more popular in B.C. and the proportion of voters voting on General Voting Day has declined. The legislated voting framework was designed for a time when over 90 per cent of voters voted at their assigned place on General Voting Day; today, only 60 per cent vote this way. This dramatic shift in voting patterns is the root cause of much of the stress on the current system.

Figure 1: Trends in the use of voting opportunities, 2005-2017



Compliance: Advance and absentee voting are administered through complex and labour-intensive procedures. These procedures were not designed to handle the high volume of voters accessing them in recent elections. Evidence shows that, in spite of efforts to improve training and enhance supervision, election officials working a 14-hour shift with paper-based tools do not consistently apply procedures accurately. The significant strain on the system was apparent in the 2013 Provincial General Election, when 6.9 per cent of absentee votes did not pass the screening tests for compliance, many due to election official error².

Efficiency: The staffing model defined by legislation for General Voting Day requires that two election officials serve each of the province's approximately 6,000 voting areas. Over the years, as voters have chosen in increasing numbers to vote advance, the required teams of election officials on General Voting Day are serving far fewer voters than originally envisioned by the model.

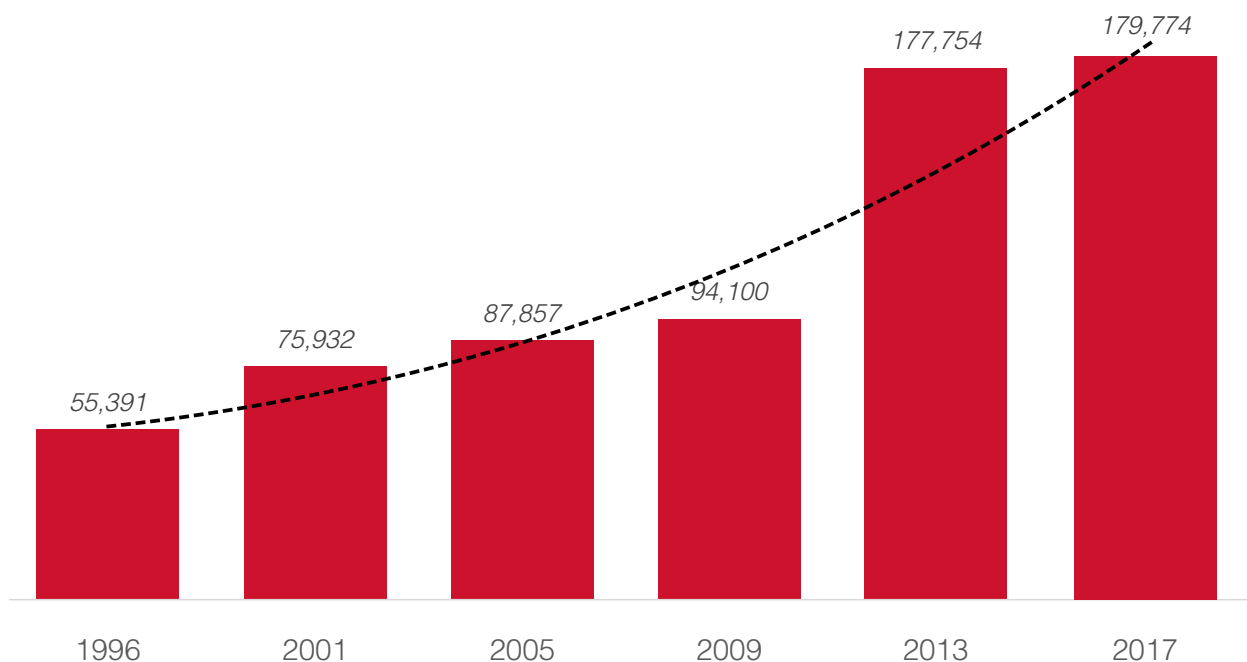
² Absentee votes are administered using certification envelopes that list the voter's name and residential address. During preparations for final count, these envelopes are screened for accurate completion and to ensure the voter is registered, voted in the correct district, and did not vote more than once. If an envelope fails screening it is set aside and not counted. This error rate of 6.9 per cent was reduced to under one per cent in the 2017 general election (see page 24).

Service to voters: The legislated staffing model on General Voting Day requires voters to vote at the station designated to serve their voting area. This leads to situations where there may be a line up at some stations, while officials sit idle at others. This model made sense when a paper list was the only way to record participation and ensure integrity, but ways that can provide better service to voters exist today.

Service to candidates: To help get out the vote, the *Election Act* entitles candidates to timely information about who has voted, if they request it from Elections BC and meet the requirements of the *Election Act*. For example, on General Voting Day the current system anticipates a distributed model where large numbers of scrutineers are deployed to voting places throughout the province to record voting activity. With today's advanced communication and information systems this is not an efficient way for candidates to gain access to voter participation information.

Timeliness of results: Absentee ballots are counted at final count, 13 days after election night. The number of absentee ballots considered at final count has grown steadily in recent elections to almost 10 per cent of all ballots, and in 20 to 30 per cent of electoral districts has exceeded the margin between the top two candidates after the initial count on election night. When overall results are close, as was the case in 2017, the prolonged uncertainty related to the delayed count is challenging for all electoral stakeholders.

Figure 2: Number of ballots counted at final count, 1996-2017



Current system – innovation and solutions

Elections BC has been working steadily within existing legislation to address identified issues and stresses on the current voting and counting framework. In introducing change, Elections BC has been guided by objectives to improve the experience of voting for voters, to enhance compliance with procedures, and to do this in a way that respects the use of tax dollars to fund elections. A brief description of the three main innovations introduced within the context of current legislation is provided below.

Procedures and forms: All voting and counting processes and forms have been reconsidered to improve the voter's experience and procedural compliance. In 2013, registration services were bundled with voting services to provide “one-stop” service to voters, resulting in staffing savings of approximately \$1 million.

Forms were reviewed and consolidated to ensure that election officials only recorded required information and only recorded it once. As well, the Where to Vote Card, which about 84 per cent of voters bring to the voting place, became a voting document at advance voting. This single change significantly reduced the requirement for hand writing by election officials, increased their work-rate efficiency, and improved the quality of data received by Elections BC.

Efficiency of staffing model: In 2017, Elections BC increased the size of voting areas to make more effective use of the legislated staffing model that requires two election officials to serve each voting area. By increasing voting area sizes, the average number of voters served by a pair of election officials on General Voting Day increased from 121 in 2013 to 192 in 2017, resulting in hiring 10,000 fewer staff and saving about \$4 million in staffing costs. These savings were achieved through this change without compromising accessibility or service levels to voters.

Compliance and participation information: Compliance and service to candidates and parties has dramatically improved through the use of e-poll books (i.e. laptop computers with scanners and label printers) at all advance and absentee voting opportunities. In the 2017 election e-poll books, operating custom software developed by Elections BC, were used by election officials to accurately complete voting documentation, record new voter registrations and updates, capture voter participation, and guide election officials through the complex decision paths required to administer advance and absentee voting. The e-poll book innovation allowed for electronic reporting to candidates of who voted each day following advance voting, as newly required by legislation. It also improved election official compliance with absentee procedures such that less than one per cent of all absentee ballots cast were set aside and not considered at final count in 2017 (compared to 6.9 per cent in 2013).

Future system – a vision for change

By innovating within existing legislation, Elections BC has successfully addressed several key pressure points on our current voting and counting model. There is tremendous opportunity for further enhancements if the *Election Act* is changed to allow greater flexibility in the application of technology to voting and counting processes. To explore the opportunities that exist outside the constraints of current legislation, Elections BC conducted a visioning exercise where staff were challenged to imagine a voting model that addressed the challenges of the current system while maintaining our tradition of accessibility and excellent service to voters, candidates and political parties, and the integrity features that are fundamental to public trust in an election's outcome. Staff were also asked to focus on voting that occurs in person, in a voting place³ and on technologies that have already been implemented successfully elsewhere in jurisdictions similar to B.C.⁴

An early version of the model was received positively by representatives of the Election Advisory Committee in the fall of 2014, and again in spring 2018.

Future system – key features

The proposed model has the following key features:

1. Vote anywhere
2. All votes counted on election night
3. Close to real-time participation data available for all voting opportunities
4. Improved voter service
5. Efficient staffing model

3 97 per cent of voting currently takes place in a voting place. The remaining 3 per cent is comprised of a combination of mobile voting, voting in the district office and voting by mail.

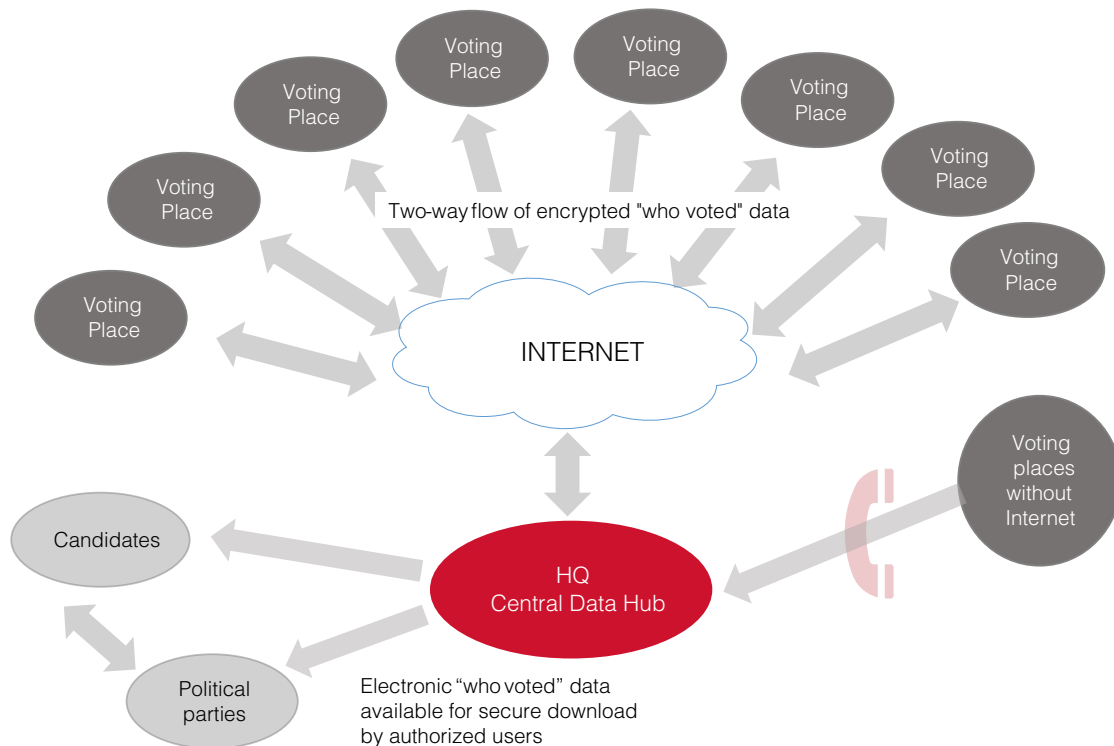
4 Internet voting is not part of our proposed model because it is not a technology used in in-person voting. It has also never been implemented successfully to administer an election in Canada at the provincial or national level. Furthermore, the Report of the Independent Panel on Internet Voting identified significant security risks with Internet voting, and we have not seen evidence that such risks have been sufficiently addressed.

Vote anywhere

The proposed model allows voters to vote at any voting place in the province during the election period. This is achieved through a communication network that transmits information from voting places to headquarters and back, resulting in an almost instantaneous sharing of voter participation information across voting places. This allows real-time strike-off of voter participation across voting places, protecting the system from multiple votes, while removing the need for the “provisional”⁵ absentee ballots of the current model.

In voting places, technology similar to that introduced in the 2017 election will be used to help election officials determine if voters are already registered or if they need to register. Voters voting outside of their electoral district will be identified as such by the system and an ordinary ballot for their district (listing their candidates) will be printed on-demand. Voters will continue to mark a paper ballot, which is important to transparency and auditability.

Figure 3: Real-time information reporting under the proposed voting model



5 While not called “provisional ballots”, B.C.’s current absentee ballots, enclosed in secrecy and certification envelopes, are essentially provisional. They are only accepted for counting after it can be verified that the voter is correctly registered, that the certification envelope is completed as required by legislation, and that the voter has not voted more than once.

All votes counted on election night

With the integrity of the system maintained continuously, there will be no need for a delayed count of absentee ballots. The voter-marked, paper ballots from all voting throughout the election period and province will be scanned, automatically tabulated, and uploaded to central servers, allowing complete election results to be reported following the close of voting on General Voting Day. Automatic vote tabulation is a proven, reliable technology to count paper ballots quickly and accurately. Vote tabulators have been used effectively in New Brunswick provincial elections since 2010. Elections Ontario has been using vote tabulators in its returning offices since 2011, piloted their use in a provincial by-election in 2016 (in which their performance was described as “flawless”⁶), and is introducing them in voting places for Ontario’s 2018 provincial election.

Immediately following General Voting Day, district electoral officers will conduct a review to ensure the accuracy of the result and issue a certificate of accuracy. Candidates would be able to view electronic images of ballots tabulated if desired. Very close races will be subject to judicial recount, as is the case in the current model. This process will be conducted at the direction of the presiding judge, likely through re-tabulation, a manual recount of voter-marked paper ballots, or both. The judicial recount will be conducted in the presence of the candidates and their representatives.

Close to real-time participation data available for all voting opportunities

Another advantage of networking voting places is that participation information can be shared with authorized candidates and political parties throughout the election period on a close to real-time basis. Voter participation information from all forms of voting will be uploaded in electronic format to a secure download service for access by authorized stakeholders. It is anticipated that extracts will show the voter identification numbers of those who have participated, as well as additional information for voters who register in conjunction with voting.

Scrutineers play an important role in ensuring transparency and accountability in voting processes and they will remain welcome in voting places; the purpose of this change is to increase the availability of voter participation information (as required by the *Election Act*) while reducing demands on candidates and political parties to recruit large numbers of scrutineers to record participation.

Improved voter service

From a B.C. voter’s perspective, the experience of voting will be familiar, yet different in key ways. Voters will still go to a voting place, but no matter where they vote, they will use the same simple and efficient procedures. Upon entering the voting place, they will be greeted by an information officer and directed to the next available station for service; they will not be directed to a pre-assigned voting station. An election official with access to the provincial voters list through an e-poll book will then provide all of the check-in services necessary to issue a ballot, including:

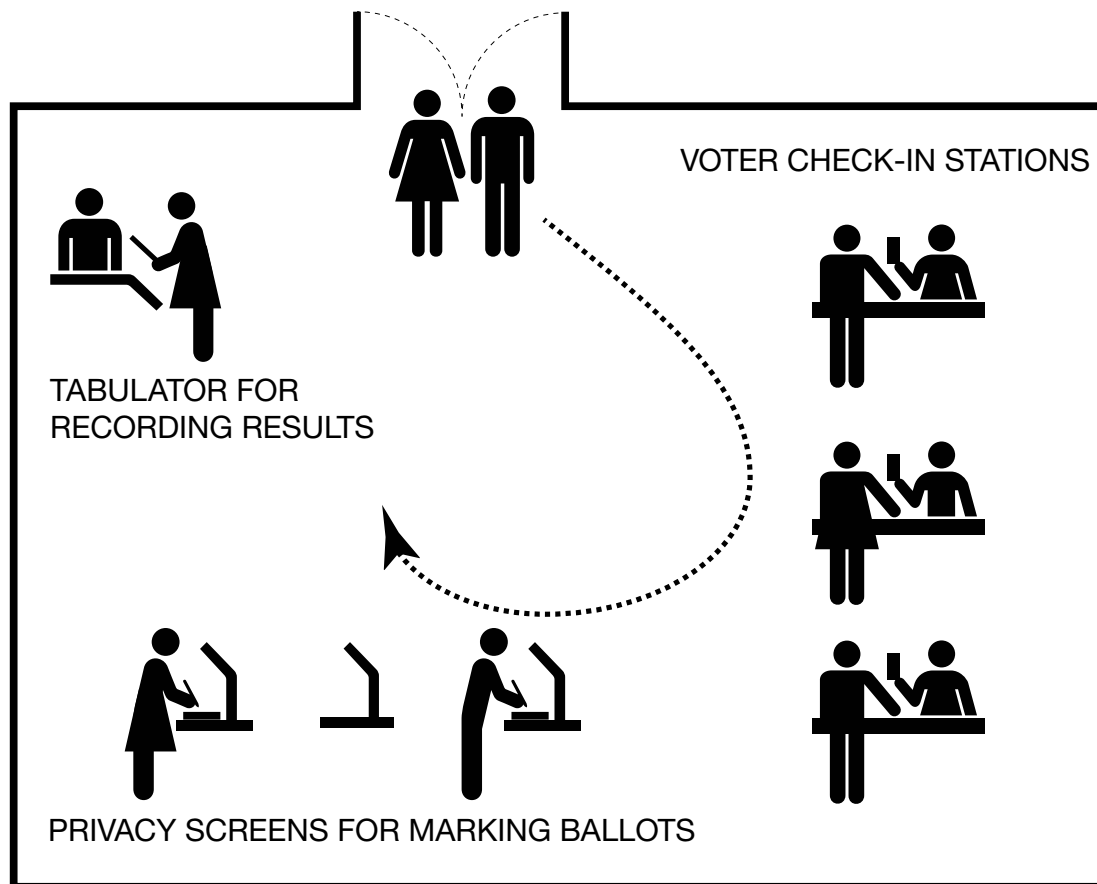
- checking the voter’s identification
- confirming the voter’s registration is current, updating the voter’s registration or registering the voter
- confirming the voter’s eligibility by having the voter electronically sign a declaration
- determining the voter’s electoral district and issuing the correct ballot based on residential address
- marking voter participation

⁶ Elections Ontario described the performance of the vote tabulators used in the 2016 Whitby-Oshawa By-election as “flawless”. The Voluntary Voting Systems Guideline in the United States requires a vote counting system to produce no more than one error per 125,000 ballots. The Logic and Accuracy Testing conducted on the tabulators used by Elections Ontario in 2016 passed an ISO screening test processing 1,549,703 consecutive ballots. There is no logic and accuracy testing for a manual count; manual counts are not as accurate or consistent as those performed by vote tabulators.

After checking in, the voter will be issued an unfolded, paper ballot and a privacy sleeve.⁷ Voting screens will be available for voters to mark their ballots in secret. Voters with disabilities will use an audio recording to hear the choices and have various options to mark the ballot, including accessible input devices and “sip and puff” systems. Voters will deliver the marked ballot in the privacy sleeve to an official at the tabulator, where the ballot will be scanned. The result will be stored electronically in the tabulator and the voter-marked, paper ballot will go into a ballot box for safe-keeping should an audit be required.

This model replaces the relatively complex manual procedures currently used for advance and absentee voting with a single, simple process to be used for all voting in a voting place. It will also eliminate the scenario in which a voter must wait in line for service at their assigned voting station, even if other stations in the voting place have no line-ups.

Figure 4: Layout of a voting place under the proposed model



7 Voters from outside the electoral district will have a ballot printed on-demand with the correct candidates listed. Pre-printed ballots will be available for those voting in their electoral district.

Efficient staffing model

The number of election officials providing check-in services to voters will be optimized based on historical voting patterns at that location, the number of voters living in the immediate area, and the number of businesses. For example, under the current model the *Election Act* requires two election officials for each voting area; a 10-station voting place serving approximately 4,500 voters would require 20 election officials plus two information officers and a supervisor, for a total of 23 officials. Under the new staffing model, the same voting place serving 4,500 voters will have about five check-in stations serving voters through a bank-teller approach (in which the voter is served by the next available official), and a total of 10 officials (five election officials, two information officers, two supervisors and the tabulator official). Staffing can also be adjusted, increasing at peak times and decreasing during slower periods. Modernizing the voting and counting model allows for a more efficient staffing model that is better able to serve voters while reducing staffing costs by half. With projected election official costs of over \$13 million in the next scheduled election in 2021, these savings are significant.

This staffing model would achieve these benefits without compromising the integrity of the process. Having two election officials present at each voting station under the current model reduces the risk of electoral fraud because these officials are responsible for issuing ballots and maintaining a ballot box. Roles are simplified under the proposed model. The election official at a voting station is only responsible for issuing a ballot to the voter. They are not responsible for maintaining a ballot box. Another official in a separate part of the voting place is responsible for managing the tabulator and ballot box. This second official does not issue ballots or manage books of ballots. Supervisors would observe the work of all election officials in the voting place. As in the current model, the full process would be open to observation by candidate scrutineers.

Table 2: Key differences at a glance

Current Model	Proposed Model
Where to vote	
Absentee voting provisions allow voters to vote at any voting place. Requires complex absentee voting procedures.	Real-time strike off on an electronic provincial voters list allows voters to vote at any voting place using the same simple procedures.
Voters not voting absentee are assigned to a voting place and voting station on election day.	Voters vote at any voting place and any station on a first-come, first-served basis at all voting opportunities.
Vote administration	
Election officials use a paper voters list for the electoral district.	Election officials use an electronic voters list for the province.
Voting activity is recorded in a physical voting book, one for each voting area on election day.	Voting activity is recorded in an electronic voting book covering the entire province.
Participation information	
For general voting, participation is captured manually by election officials on forms and gathered by candidates at set times. For advance voting, participation information is provided electronically to candidates the day after each day of advance voting. Absentee participation information is not provided.	Participation is captured electronically and in real-time as voting activity is uploaded to central servers and shared with the voting place network, candidates and political parties.
Staffing	
Fixed staffing model with two election officials per voting area.	Optimized staffing model that can be modified to provide better, more efficient service during peak periods.
Counting and results	
Delayed count of absentee votes means final results not available until 13-16 days after election night.	All votes counted and results reported at the conclusion of voting on election night.

Future system - other considerations

The five key features of the new model outlined above provide a high-level summary of the vision for change that is being recommended. Of course, in a province as diverse as British Columbia and in a business as detailed as election administration, there are a number of other considerations that relate to various aspects of the proposal that have been identified.

Voting places without Internet

It may not be possible or practical to include all voting places in the Internet reporting network. Even by the next scheduled provincial election date in 2021, it may be difficult to establish a network connection in some sections of the province. As well, given the low volume of voters, it may not make sense to distribute technology to some voting locations. What is important is that participation information from these locations is shared on a regular interval with the network of voting places such that the system is protected against multiple voting. In situations where voting places are not connected to the Internet, participation information will be reported to headquarters and captured on central servers for distribution to voting places throughout the province.

Safeguarding against misconduct

The current system requires election officials to work in pairs. One reason for this arrangement is to reduce the likelihood of election official misconduct. The proposed model has a single election official working at each check-in station. Similar to cashiers working in the retail sector, each official will be required to account for the ballots issued to their station at the end of a shift. The proposed model increases the number of supervisors to ensure that one is available to rove and provide support to officials and to ensure the integrity of the process is maintained.

Voting outside voting places

Voters in B.C. are used to having many opportunities to vote in provincial elections from the day the writs are issued through to the close of voting 28 days later. There are three voting opportunities available currently that do not take place within a voting place: voting in the district office, voting by mail and mobile voting.

The current thinking is that the same voting management system will be used to record participation in these three forms of voting conducted outside voting places. Currently voting in the district electoral office and by mail begin the day the writs are issued. Legislators may want to consider delaying the start of these forms of voting until nominations close on Day 7 of a general election so that ordinary ballots, which can be counted using a tabulator, can be used. However, if these opportunities are to be available from Day 0, other options can be explored, including the use of write-in ballots to be counted by hand on election night. Regardless of the type of ballot issued and the form of counting, it is anticipated that all voters at any opportunity will be marked as having voted in the voting management system so that they will be unable to vote again.

Privacy and participation information

The proposed model expands both the frequency with which candidates and political parties will receive electronic participation information and the scope of voting opportunities for which electronic participation information would be available. There is no anticipated change to the type of information provided to candidates and political parties. That is, for pre-registered voters, only the voter identification number is provided; however, for new registrants name and address information is shared. Elections BC will conduct a Privacy Impact Assessment related to the transfer of voter registration information on the secure network to ensure that voters' personal information is protected.

Backup for system outage

A system that relies on Internet access for the transfer of information is, by definition, vulnerable to outages. It is important that fall-back systems are in place and that supervisors are trained in how to implement them. If Internet access is lost, laptops will continue to operate and manual paper-based backup procedures will be used where appropriate. This was the approach used successfully in the 2017 election in the case of equipment failure.

Future system – the path forward

The current *Election Act* is very prescriptive and many elements of our vision for change fall outside its boundaries. The Chief Electoral Officer recommends that a legislative committee be established to review the changes to electoral legislation that will be required to support the proposed voting and counting model. It is anticipated that the legislative committee would review the proposed voting and counting model in detail to address any issues or concerns and identify the changes required to the *Election Act*. The main areas of the current Act requiring change are Part 6 – Voting, Part 7 – Counting, and Part 2 – Election and Other Officials. However, the voting and counting systems are intricately tied to the timing of nominations and the overall election calendar, and may result in amendments in other areas as well. Elections BC has begun some preliminary work to identify the specific amendments required should legislators choose to proceed with the changes outlined in this appendix. Change takes time and must be undertaken carefully with due consideration to all aspects of electoral integrity. It is anticipated that Elections BC could be ready to administer a general election using the new model within as little as 3 years of the start of the legislative review, with Elections BC requiring 18 to 24 months following the passage of legislation to implement any new voting and counting model.

Business case

The list of Elections BC's organizational values includes the term innovation. Elections BC strives to explore new ways to improve service levels and make effective use of public funds. The proposed voting model fits clearly into these goals.

Technology advances in the last 30 years have changed the way we live. Hand-in-hand with technology advances are changes in stakeholder expectations. People expect service to be faster and more efficient as they become increasingly comfortable with technology-assisted self-service options.

Until recently, it was difficult to make a strong business case for greater integration of technology into voting processes in the context of electoral events that occur once every four years. This situation is changing as the cost of adopting new technology comes down, while the advantages in terms of portability, speed, and information capacity grow more compelling.

The combination of technology advances, changes in voter expectations and reduced technology costs is setting the stage for significant innovation in electoral administration.

This section provides an overview of the business case for implementing the proposed voting model.

Benefits

The benefits of voting modernization fall into two categories: direct and indirect. Direct benefits can be realized in terms of cost savings in the following areas:

- preparing and printing voting documents (voting books, voters lists, and other documentation); and
- operational election official staffing.

The direct costs savings are estimated to be about \$14 million for two provincial general elections, as shown in the table on page 34. As expected, the primary benefit is operational staff savings, reflecting the underlying theme that modernization at the voting place is critical to the success of the model.

Indirect benefits are not directly realized in terms of cost savings, but they do significantly increase the level of the service provided, particularly to voters. Where appropriate, these have been monetized in the cost-benefit table.

Indirect benefits include:

- time savings through real-time electronic strike-off of voter turnout throughout the province;
- improved data quality because manual data entry is eliminated; and
- improved compliance through automation and computer guided decision making.

Costs

The estimated cost to develop and implement the proposed voting model in B.C. is \$11 million. A preliminary analysis of the costs spread over the business cycle leading up to a future provincial general election is provided in the table below.

Cost-benefit analysis

The following table provides a summary of the estimated costs and direct benefits resulting from the implementation of the proposed voting model over two election cycles.

“GE1” and “GE2” indicate the first and second general elections in which the new model is implemented.

Table 3: Cost-benefit analysis

System Cost	GE1 Year -2	GE1 Year -1	GE1 Year	GE2 Year -1	GE2 Year	Total
System Development	\$50,000	\$100,000	\$50,000	\$50,000	\$50,000	\$300,000
Hardware	-	\$4,650,000	\$2,800,000	\$200,000	\$2,800,000	\$10,450,000
Network	-	-	\$80,000	-	\$100,000	\$180,000
Operational Support (System)	-	-	\$100,000	-	\$110,000	\$210,000
Total	\$50,000	\$4,750,000	\$3,030,000	\$250,000	\$3,060,000	\$11,140,000
Direct Benefits						
Printed voting document savings	-	\$155,000	\$155,000	\$155,000	\$155,000	\$620,000
Operational staff savings	-	-	\$6,500,000	-	\$6,750,000	\$13,250,000
Total	\$0	\$155,000	\$6,655,000	\$155,000	\$6,905,000	\$13,870,000
Cost/Benefit Analysis						
Net Benefit (Benefits - Cost)	-\$50,000	-\$4,595,000	\$3,625,000	-\$95,000	\$3,845,000	\$2,730,000
Benefit/Cost Ratio	0.0	0.0	2.2	0.6	2.3	1.2

Assumptions

General

- Five years are assumed in the analysis; three years leading up to the first general election in which the model is implemented, and the two years leading up to the second general election in which the model is in use. During this time period the costs and benefits will be realized.
- No discount rate has been applied to future year costs and benefits.

System costs

- Cost estimates are preliminary and based on discussions between Elections BC and vendors; assets will be used for two provincial general elections.

Direct benefits

- The estimate of operational staff savings is based on the more efficient staffing model (as fewer election officials required).
- Printed voting document savings are based on actual costs and assessment of documents no longer required under proposed model.

Conclusion

British Columbia's electoral legislation is progressive in many ways, and contains elements that other Canadian electoral agencies would like to have implemented in their respective jurisdictions. However, the basic organization of our voting model is now over 100 years old, and has become increasingly complex. It is possible, while retaining the core principles of our Act, to modernize voting administration in British Columbia to better meet the needs and expectations of the province's voters and political stakeholders, while achieving significant benefits in integrity, timeliness of results, and efficiency.

Election administration is a business of details, which requires selective innovation to maintain the integrity of the electoral process and public confidence. The analysis and recommendations contained in this report are based on this perspective. The concepts and new voting processes outlined in this report have been carefully examined and reviewed both within Elections B.C., as well as through positive consultation with each of the provincial political parties currently represented by members of the Election Advisory Committee: the British Columbia Liberal Party, the BC NDP, and the Green Party of BC. Voter expectations and needs have also been considered, using information gained from Elections BC's voter and non-voter surveys carried out following each provincial general election.

Further enhancements are possible if the *Election Act* is changed to allow greater flexibility in the application of technology to voting and counting processes. As this report has outlined, these include better voter service and the ability to vote anywhere, real-time participation data, significant cost savings through a more efficient staffing model, and the ability to count all votes on election night. Elections BC looks forward to further discussion with legislators to work towards modernizing voting administration in B.C. to make this opportunity a reality.

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