

FINANCE & TAXATION

Submitted by the Hamilton Chamber of Commerce – Municipal Election Campaign Finances

Issue:

In its current form, the Election Campaign Finances section of the Municipal Elections Act prescribes, among other things, limitations to campaign donations, requirements for candidate's submission of financial records, and provisions for campaign audits where it is believed that a candidate has contravened the provisions of the Act. This has caused needless confusion in municipal elections amongst both donors and those running for office in terms of what is "legal" or "illegal" in terms of campaign financing.

Background:

The Act places accountability for review of compliance audit requests within the hands of the municipal council or local board, as the case may be, rather than with an independent central body. This creates a challenging conflict for municipal councils faced with this scenario, as they must balance the request for audit from an elector with the information provided by a colleague in deciding whether the application for audit should be granted. In addition, this conflict prevents councils from rejecting frivolous requests for campaign audits, which could be handled more directly by an independent body. This scenario has been witnessed recently in both the City of Hamilton and the Regional Municipality of Niagara, where significant expenditures of tax dollars, use of municipal resources and distraction from critical business activities has occurred.

To rectify this situation, the Municipal Elections Act should be amended to clearly identify accountability for election campaign finance issues, clearly outline the duties of a candidate with respect to compliance, and clearly establish reasonable limits for fund raising in municipal elections.

By implementing the following three recommendations, the following issues could also be dealt with:

1. The Chief Municipal Elections Officer could have the authority to discuss complaints with candidates, determine if a complaint is of a technical nature or a substantive nature and decide how to deal with the complaint. The Chief Municipal Elections Officer could also have the authority to compel the candidate to provide further information to the Chief Municipal Elections Officer in response to any complaints.
2. The Chief Municipal Elections Officer could have the authority to conduct a review of any candidate's election finances, whether initiated by a complaint of a constituent or internally by the centralized municipal election administration after

- receipt and review of the candidate's financial statements. The system could resemble what currently takes place for both provincial and federal candidates.
3. Any decision regarding how to deal with contraventions or errors made by a candidate could be within the sole authority of the Chief Municipal Elections Officer and the decision of whether to have compliance audit conducted could be within the sole authority of the independent Chief Municipal Elections Officer, and not local municipal councils.
 4. Any decision on charging a candidate with an offence under the Municipal Elections Act could be solely within the authority of the independent Chief Municipal Elections Officer.
 5. Where there is a contravention which is explicitly clear on the face of a contribution, the candidate could notify the Chief Municipal Elections Officer, in writing, within a specific period of time after the candidate becomes aware of the contravention and the candidate could follow and comply with any directions regarding the contribution which are made by the Chief Municipal Elections Officer.
 6. Where the Chief Municipal Elections Officer brings an apparent contravention to the attention of the candidate, the candidate would be able to co-operate with the Chief Municipal Elections Officer and follow any directions regarding the contribution, which would be made by the Chief Municipal Elections Officer.
 7. Where it is brought to the attention of the Chief Municipal Elections Officer that an individual, corporation or union has made a donation, which has contravened the provisions of the Act, the Chief Municipal Elections Officer who could consider any reasons for any apparent over-contribution or other contravention could investigate any such contravention. It shall be solely within the authority of the Chief Municipal Elections Officer to have a donor, whether an individual, corporation, or union charged with an offence under the Act.
 8. Every candidate for municipal election, where the maximum spending limit for the candidate is over \$ 25,000.00, could be required to have a Chief Financial Officer whose responsibilities could be similar to those of a chief financial officer or agent for a candidate in a provincial or federal election.
 9. The Provincial Government could review the maximum donation and campaign limits per candidate.
 10. The word "constituent" could be defined in the Act as being a citizen that is entitled to vote for a candidate in the specific election in question.

* Details surrounding these recommendations are outlined in the following section. *

RECOMMENDATIONS:

The Ontario Chamber of Commerce urges the Government of Ontario to:

1. The Province of Ontario should create a centralized municipal election administration to oversee the conduct of municipal elections and to deal with municipal election financing and complaints made by voters. The centralized election administration should be headed by an independent Chief Municipal

Elections Officer and should operate independently of and at arms length from the government of Ontario and the municipalities throughout the province all of which are creatures of provincial statute.

2. All financial returns prepared by candidates should be filed not with the clerk of the local municipality but with the chief municipal elections officer. Copies of returns should be made available to citizens for inspection on a web site of the centralized municipal election administration.

3. Any complaints by citizens regarding the election finances of a candidate should be directed only to the Chief Municipal Elections Officer or his or her designate within the centralized municipal elections administration.