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Proposed Amendments to the Nisga'a Elections Act & Nisga'a Elections Regulation

Following the 5th Regular
Election of Nisga'a Government



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Table of Contents

- 0
- Introduction 2
 - Purpose 2
 - Scope..... 2
 - Method 2
- Overview 2
 - Summary of recommendations: 2
- Proposed Amendments 4
 - 1. Nisga’a Elections Act S16 Nominations and Nisga’a Elections Regulation S4 4
 - 2. Nisga’a Elections Act S3 Date of regular elections..... 5
 - 3. Nisga’a Elections Act S6.1 Additional Voting Locations 6
 - 4. Nisga’a Elections Act S15(2) Qualifications to stand for office 7
- Additional items not included in report but brought forward during the 2016 election process..... 8
 - 1. Nisga’a Elections Regulation S14(c)(i) & (ii) Nomination requirements/Photo requirement 8
 - 2. Nisga’a Elections Act Part 3 Voter Qualification and Registration and Nisga’a Elections Regulation Part 3 Nisga’a Voters List and Lists of Voters..... 9
 - 3. Nisga’a Elections Regulation S31 (related to staffing requirements - administrative)..... 10
- For Information 11
 - 2016 Voter Turnout 11
 - 2016 District 8 Mail-in Ballots 12
- Looking Forward 12
- Appendices..... 13
- References: 13

Introduction

Purpose

In accordance with Section 77(2) of the Nisga'a Elections Act: *the Nisga'a Elections Officer, by report to Wilp Si'ayuuḱhl Nisga'a may suggest consideration of amendments to this Act or other Nisga'a enactment affecting elections or referendums.* The report on the 2016 regular election of Nisga'a Government along with a list of proposed amendments was presented to Executive in January 2017 and at the WSN spring sitting of 2017.

These proposed legislative amendments are intended to better align our processes with other election processes with a goal to ensure effective and efficient administration of electoral events and to provide for a more inclusive and accessible electoral process by continuing to develop best practices.

Scope

In reference to Legislative History found in the last pages of the Nisga'a Elections Act and Nisga'a Elections Regulation, amendments were last made in 2011 and 2013.

Method

Following the 2016 regular election of Nisga'a Government the NEO conducted a review of the election process. Please refer to the References section of this document.

Additions were made and editing was done based on email and telephone communication with IHLC in 2017 with a final review at the January 5, 2018 meeting with IHLC, LC & the CEO.

Overview

The recommendations presented in this report focus on improving service to the voter and candidates by removing participation barriers and simplifying procedures to improve compliance. This analysis was done with a vision to provide options for the best approach moving forward that will achieve benefits to all participants while making the best use of our financial resources.

Summary of recommendations:

- 1) Change nomination meeting process to a 10 day nomination period (paper process)
- 2) Adjust the date of the regular election
- 3) Revert back to including Prince George voters in the District 8 list where they would receive mail in ballots.
- 4) Amend Qualifications to Stand for Office so that the rules are consistent for all nominees including the sitting members of the Council of Elders.

Additional items not included in the NEO report but brought forward during the 2016 regular election:

- 1) Remove photo requirement on ballot
- 2) Protect voter's information by removing the requirement to include date of birth & physical address on voters lists prior to distribution. Until the Nisga'a FOIPA is in place, establish procedures to ensure protection of private information when distributing voter information.
- 3) Proposed administrative changes to reduce the number of staff required to administer an election while providing for additional voting locations where necessary.

Included in the 2018/19 budget and work plan is a public education campaign to introduce any changes to the elections process.

Proposed Amendments

Organized by amendments that have the most impact

1. Nisga'a Elections Act S16 Nominations and Nisga'a Elections Regulation S4

Issue: Concerns in regard to the costs associated with the nomination meeting procedure are mentioned in election reports as early as 2000. The travel, meals and accommodation costs for 3 NEO staff to convene a nomination meeting in each of the four communities and 3 urban local areas was approximately \$10,000. Regular and extra hours are additional costs. Suffice to say, the requirement to hold a nomination meeting in each voting area is costly, time consuming and reduces the time that is necessary to carefully track, monitor, review and consider submissions. The NEO received several verbal complaints that the nomination meeting period occurred when people were on summer vacation.

Of the **123** that were nominated in 2016, 90 submitted their nomination package with required documentation within seven days after being nominated. Where a person was nominated for more than one office, that person was required to submit the acceptance form for the office of choice. Others chose not to accept the nomination by not submitting any information while others were not informed by the mover and/or seconder of the nomination. Two candidates withdrew after ballots were printed. Two nominees submitted their entire package on the day of the nomination meeting, both had experience with the municipal and/or provincial nomination process.

Recommendation: Replace nomination meeting process with a 10-day nomination period and move to a paper nomination process.

Consideration: BC/Municipal Elections provides for a 10-day nomination period whereby those who wish to be nominated, to nominate and/or to second a nomination are required to request or pick up a nomination package which is to be completed and submitted to the NEO within the nomination period timeline.

2. Nisga'a Elections Act S3 Date of regular elections.

Issues:

- 1) Two critical dates within the 150 day election period corresponded with long weekends: Notice of Elections, Notice of Nomination meetings and the publication of the Preliminary Voters List occurred on August 3. The Notice of Voting Opportunities, Notice of Candidates and the publication and distribution of the Revised Voters List occurred on October 11 & 12, 2016. In both instances, a massive mail-out to District 8 was required. The challenges were as follows:
 - Availability of NLG employees to provide access and to monitor the use of the postage meter
 - Availability of on-call staff to assist with mail-out
 - Holiday Monday impacts postal services so we opted to bring the 900 envelopes to the Terrace post office.
- 2) There was concern that the nomination meetings occurred while people were away on summer vacation.
- 3) Advance voting day had to be scheduled on a Wednesday because community events were already scheduled for Halloween on the Saturday before the regular election date. Having advance voting on a Saturday provides better opportunity for those who are employed so that they don't have to take time away from work to travel to the nearest voting location.

Recommendation: Adjust the date for regular election to a date where there are no gaps/holidays within the election period.

Consideration: BC Elections' election period is 51 days, from the date the writ is issued in April to the date of its return in June.

3. Nisga'a Elections Act S6.1 Additional Voting Locations

Nisga'a Elections Regulation S29.1 *For the purposes of section 6.1 of the Act, the City of Prince George is prescribed as an additional voting location.*

Issue: Of the 120 registered voters residing in Prince George in 2016, 30 voters attended the voting location. The legislation requires our office to have a specific number of voting officials to manage each voting location. As a result, we had 12 voting officials for the Prince George voting station who worked for 12 hours with meals provided plus the cost of the venue for a total of approximately \$5000.

Recommendation: Revert back to including Prince George voters in the District 8 mail-out list so that they receive a mail-in ballot, increasing the District 8 mail-out cost by \$500.

Consideration: Develop criteria for the establishment of additional voting locations based on the registered voter population in that particular area.

BC Elections appoints an Electoral Boundaries Commission with members: Election officer, a judge and a member of parliament.

***Additional voting locations in a voting area: (Add as a sub category to the above)**

Issue: In the 2016 regular election, we had an average of 30% voter turnout in the Nisga'a Urban Local areas where the registered voter populations are well over a thousand. The low voter turnout was largely due to the need to travel to the voting station and not being able to take time off to vote.

Recommendation: When administering an election event, plan for at least two voting locations where voter population exceeds 1000 registered voters.

Consideration: In regard to a voting area created for administrative purposes BC Elections allows a maximum 400 voters in a geographic area to comprise a voting location. The restriction on the number of registered voters in a voting area is to ensure the voting officer and voting clerk can manage the workload on voting day.

4. Nisga'a Elections Act S15(2) Qualifications to stand for office

A person is not qualified to stand for an elected office in an election if that person (b) is a member of the Council of Elders other than the Chairperson for the Council of Elders.

Issue: When a sitting member of the Council of Elders is nominated they must include a copy of their resignation to the Council of Elders with their nomination package. On the other hand, those who sit as elected officials or are employed and/or BOD of other entities are considered to have resigned upon taking the oath of office after being elected.

Recommendation: Amend wording so that the rules are consistent for all nominees.

Consideration: An option would be to provide for an amendment to the administrative processes whereby if a sitting member of the Council of Elders is nominated, the alternate would sit in the member's place until the election process is complete. If the member is elected there would be a process to appoint a new member and if the member is not elected, the member would retain their seat as a member to the Council of Elders.

Additional items not included in report but brought forward during the 2016 election process

1. Nisga'a Elections Regulation S14(c)(i) & (ii) Nomination requirements/Photo requirement

Issue: It was noted in the NEO reports from previous election events that the process of receiving information in a timely fashion had been delayed because not all nominees submitted a photo. The ballot printing process is delayed *and* the cost to print ballots with photos was \$6000 more than the cost to print ballots without photos. These concerns apply in the 2016 regular election.

Recommendation: Remove the requirement of a photo on a ballot.

Consideration: Photos on ballots are not required for any other election. Where same names are concerned, the citizenship number, residential address, use of full name on ballot and use of photo on campaign material will suffice in terms of ensuring that voters know which Nisga'a citizen is running for office.

Note: Candidates provide their information including a photo during their campaign. There is opportunity for candidates to provide a brief profile including a photo and contact information to be posted on a web page or on social media.

2. Nisga'a Elections Act Part 3 Voter Qualification and Registration and Nisga'a Elections Regulation Part 3 Nisga'a Voters List and Lists of Voters

Issue: There is a growing concern that is brought to the NEO each time there's an election event regarding the privacy of personal information. The NEO is legislated to include private information on the voters list and print and distribute the voter's lists for viewing by the public.

Recommendation: Remove Nisga'a Elections Regulation 7(d) the date of birth of each voter.

Consideration: Elections Canada and BC Elections do not make the voter's lists publicly available and they use a database software called EIS. Their processes for sharing personal information with candidates and MP's and so on are set out in the Canada Elections Act where data-sharing agreements are to be signed. *Elections Canada data-sharing agreements include conditions regard the use and protection of personal information. Voters' registration information is protected by the Canada Elections Act and the Privacy Act. Under the Privacy Act, you may request access to your own personal information as held by Elections Canada. All personal information under the control of a government institution must be retained in a personal information bank that is registered with the federal government. Voters' information is held in Personal Information Bank CEO PPU 037 described in the Elections Canada chapter of Info Source – Sources of Federal Government and Employee Information.*

Until such time that the Nisga'a FOIPA is enacted, put in place a procedure to ensure protection of private information.

Interim options:

- only voter's voter number, last name and given names shall appear on the voter's list
- Voters lists distributed to Village Government offices MUST be managed by the Village Registrar and voters lists distributed to Nisga'a Urban Local offices MUST be managed by the membership clerk.
- Voters' street address shall not be included on the list. Only the city/town.
- Develop a plan to move to a paperless E-database for use by voting officials

3. Nisga'a Elections Regulation S31 (related to staffing requirements - administrative)

Issue: The biggest line item in the NEO budget has been wages and salaries. Costs associated with the number of voting officials required at each voting location can be reduced without amending legislation. The proposed changes listed below will reduce the number of voting officials required at each voting location and increase the number of voting locations making optimal use of budget.

- The regular election of 2016 required that we hire 118 voting officials for 8 voting stations
- Each voting area is staffed with a district and deputy district officer along with 2 voting officials per ballot box and two information officers.

Table 1 – 2016 NEO staffing total at 118

Voting Area	Offices (1 ballot per)	Ballot boxes	Voting officials
Gitlaxt'aamiks	National, Chief & Council	6	16
Gitwinksihlkw	National & Chief	5	16
Laxgalts'ap	National, Council	5	14
Gingolx	National, Chief & Council	6	16
Prince Rupert/Port Edward	National, Urban Local Rep & Society Rep	6	16
Terrace	National & Urban Local Rep	5	14
Vancouver	National & Urban Local Rep	5	14
Prince George	National	4	12

Consideration:

The following changes will significantly reduce the staffing requirements:

- As noted in previous pages, revert back to including Prince George in the District 8 mail-in ballot list until such time that their voter population exceeds 400
- Provide for additional voting locations where eligible voter population exceeds 400.
- Separate the administration of Nisga'a Urban Local Rep & Nisga'a Society Rep. elections. Their elections can occur at the same time but administered by someone other than the NEO. (Administrative).
- Proposed change re ballot structure. (Administrative):

Currently we have one ballot for each office so voters are required to sign their name up to 6 times when voting – see Table 1 above.

In 2008 the ballots the 4 national office seats were on one ballot. The ballot for the office of Chief and Council can also be merged to one. Based on logbook entries, having multiple offices on one ballot did not complicate the count procedure. Note: Vancouver municipal election and US election have multiple offices on one ballot.

The above noted changes reduces the number of voting officials to 80 while allowing for more voting locations as demonstrated on Table 2 below:

Table 2 Projected staffing for next regular election at 80

Voting Area	Offices	Ballot boxes	Voting officials
Gitlaxt'aamiks	National, Chief & Council	2	8
Gitwinksihlkw	National, Chief & Council	2	8
Laxgalts'ap	National, Chief & Council	2	8
Gingolx	National, Chief & Council	2	8
Prince Rupert/Port Edward	National, Urban Local Rep	2	8
Terrace	National & Urban Local Rep	2	8
Vancouver	National, Urban Local Rep	2	8
Additional voting locations:			
Prince Rupert/Port Edward	National, Urban Local Rep	2	8
Terrace	National & Urban Local Rep	2	8
Vancouver	National, Urban Local Rep	2	8

For Information 2016 Voter Turnout

Table 3

District	Village/Urban Local	Total Registered Voters	Total of voters who voted	Percentage
D1	Gitlaxt'aamiks	525	414	79%
D2	Gitwinksihlkw	148	124	84%
D3	Laxgalts'ap	404	273	68%
D4	Gingolx	324	221	68%
D5	Prince Rupert/Port Edward	1089	297	27%
D6	Terrace	787	263	33%
D7	Vancouver	906	319	35%
Other	Prince George	120	30	25%
D8	Mail-in sent	757	84	11%
	Address Unknown	414	NA	NA
	Totals	5474	2025	37%

Table 3 above represents voter turnout in the 2016 regular election. With the amendments we are projecting an increase in the percentage of voters who voted to 50%.

2016 District 8 Mail-in Ballots

Table 4

Ballots Mailed	Ballots Received on/before November 2, 2016	Ballots Received After November 2, 2016	Envelopes returned to sender (to date)	Percentage of voters who voted
757	84	21	88	11%

Feedback from voters who receive mail-in ballots in 2016:

(Packages are sent when list of candidates is confirmed and ballots are ready).

1. Voters felt they didn't have enough time to consider their selection and return ballot, especially those who live in remote communities where postal services are delayed.
2. Many voters had no information on candidates therefore they were not able to make an informed decision.

Looking Forward

We have come a long way in our voting processes since the NTC days. How many of you remember when voters would line up and whisper their selection in the voting officials' ear? We later transitioned to a show of hands and on to paper voting.

In response to the diverse and changing needs of voters and in an effort to increase voter turnout as shown in tables 3 & 4, we have been considering the option of paper voting, voting by mail and **electronic voting** which was used by Metlakatla in their 2016 election process.

I have done preliminary research into the OneFeather Company that provides this service and I've talked to a few people who participated in the 2016 Metlakatla election. The responses were excellent and very enlightening in that electronic voting prompted a larger percentage of youth to vote and increased the number of voters from off-reserve. You'll find a lot of information at Onefeather.ca.

I am seeking direction to further explore this option and eventually bring Mr. Lawrence Lewis, OneFeather CEO & Founder to present at a meeting of the Executive.

Appendices

Legislative History

References:

- 1) NEO reports for 2000, 2008, 2012 (no report on file for 2004 regular election)
- 2) Nisga'a Elections Act 2000 to date
- 3) Nisga'a Elections Regulation 2004 to date
- 4) Nisga'a Elections Act and Nisga'a Elections Regulation Legislative History
- 5) NEO procedures to date
- 6) Online information: Municipal, provincial & federal election processes
- 7) BC Elections District Electoral Officer Manual
- 8) Discussion with BC Elections Officer
- 9) Nisga'a Election official log books on file
- 10) Feedback from voters and/or voting officials