

ANNUAL REPORT 2008



December 29, 2009

The Honourable George Hickey
Speaker of the Legislative Assembly
Room 244 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Mr. Speaker:

I have the honour of submitting to you my annual report on the activities of Elections Manitoba for the 2008 calendar year. This report is submitted pursuant to subsection 32(1) of *The Elections Act* and subsection 99(1) of *The Elections Finances Act*. In accordance with subsection 32(5) of *The Elections Act* and subsection 99(2.1) of *The Elections Finances Act*, annual reporting under these statutes has been combined.

The applicable legislation states that the Speaker shall lay the report before the Legislative Assembly forthwith if the Assembly is in session or, if not, within 15 days after the beginning of the next session.

Pursuant to subsection 32(4) of *The Elections Act* and subsection 99(3) of *The Elections Finances Act*, an annual report that contains recommendations for amendments to these Acts stands referred to the Standing Committee on Legislative Affairs for consideration of those matters. Furthermore, these subsections provide that the Committee shall begin its consideration of the report within 60 days after the report is laid before the Assembly.

Respectfully yours,

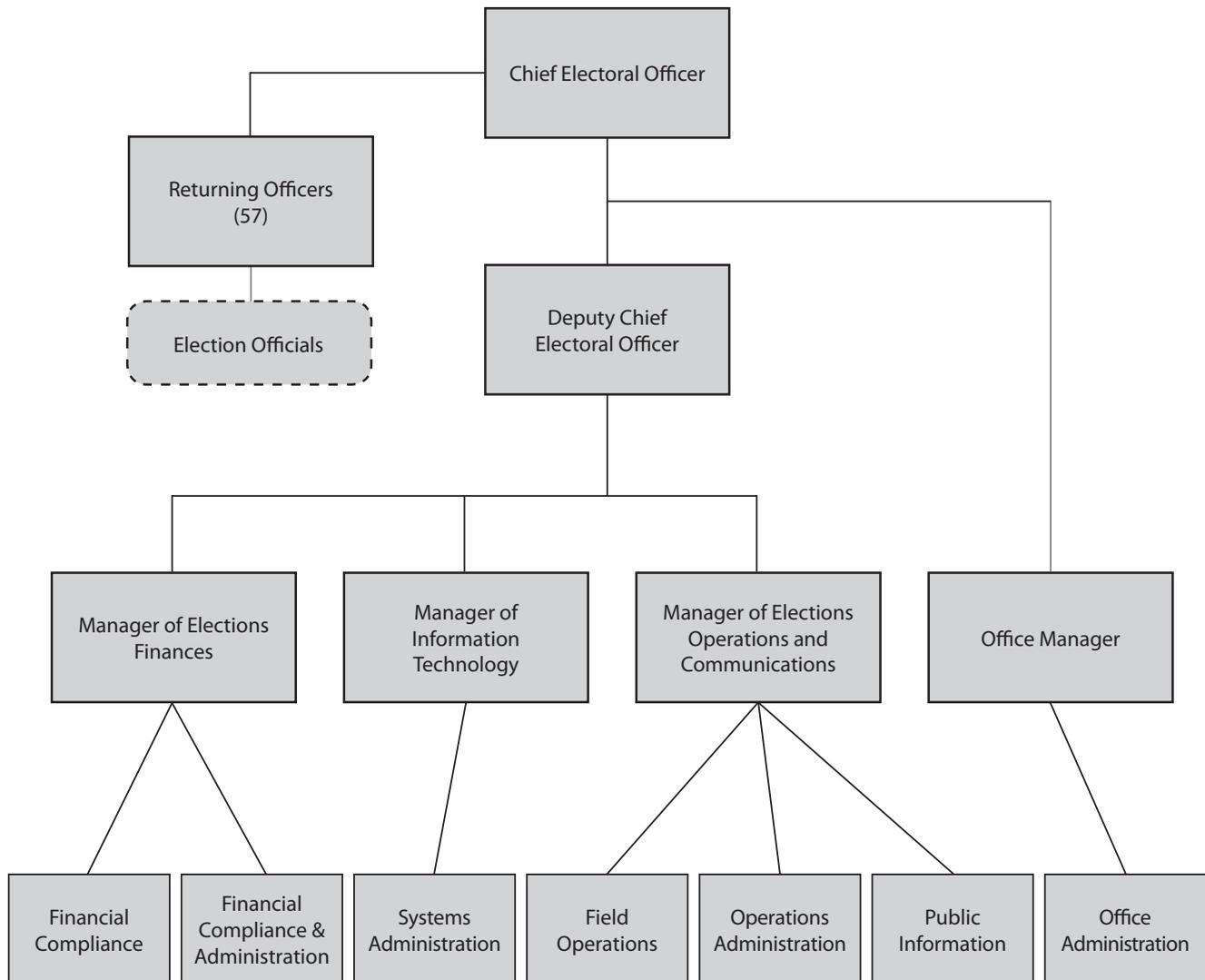
ORIGINAL SIGNED BY

Richard D. Balasko
Chief Electoral Officer

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ORGANIZATIONAL CHART





INTRODUCTION

The year 2008 was a time to assess the preceding years of work that had culminated in the 39th General Election; years defined by intensive election preparation amidst a changing legislative environment. A post-election evaluation was conducted early in 2008 – the first step toward the development of strategic initiatives and readiness plans going into the 40th General Election.

It was also a year in which electoral boundaries were renewed. The Electoral Divisions Boundaries Commission reconvened in 2008 to review existing boundaries and released its final report establishing new boundaries in December of 2008. As per the *Electoral Divisions Act*, the Chief Electoral Officer was a member of the Commission.

More legislative amendments were introduced in 2008 as well, through Bill 37. These amendments were incorporated into election and by-election readiness plans. Those readiness plans were put to the test when two vacancies occurred late in 2008.

Along with the election activities, a number of annual activities were also undertaken, including processing of annual returns, the delivery of public information and education programming, and staff development.

In short, the groundwork was laid for the 40th General election in 2008. The annual and election activities that form that foundation are detailed in the pages that follow.



ELECTION ACTIVITIES

PREPARING FOR BY-ELECTIONS AND LEGISLATIVE CHANGE

Two vacancies occurred in 2008 – one in September in the electoral division of Elmwood and one in November in The Pas. Ultimately, the by-elections were called in 2009, however it was necessary to enter a state of readiness in 2008.

Returning officers and Assistant Returning Officers were appointed and trained and began their pre-writ work. Preparations included plans to conduct the by-elections concurrently or on separate calendars. Prior to the writs being dropped, Bill 37 came into effect. Changes to the election calendar for advance voting, the hours on election day, advertising spending limits, among others, also had an impact on the by-election preparations.

The Bill was given royal assent on October 9, 2008. Amendments introduced through the Bill will have a profound effect on the conduct of elections in Manitoba. Changes include:

- a set date for elections
- an address database to assist enumeration (to be prepared and maintained by Elections Manitoba)
- an additional day of advance voting (a Saturday)
- extended voting hours on election day (7 a.m. to 8 p.m.)
- on application, annual funding for registered political parties based on votes received
- removal of the annual advertising limit and introduction of an election year advertising limit of \$150,000 for parties and \$5,000 for candidates
- recoverability of late filing fees from reimbursement
- introduction of compliance agreements

PLANNING FOR A GENERAL ELECTION

Post-election Evaluations

Following general elections, Elections Manitoba conducts comprehensive post-election evaluations. Research firms are contracted to gather and analyze data from the public, staff and political participants.

Most of the research was conducted in 2007 and the findings are summarized in the 2007 annual report. A survey of voters and non-voters conducted by Prairie Research Associates has also been published to electionsmanitoba.ca.

A survey of official agents and auditors was conducted by Deloitte in February of 2008. That research, conducted in the format of a needs assessment, was designed to assess Elections Manitoba's compliance assistance activities.

Using the survey data and other analysis conducted internally, each department within Elections Manitoba then evaluated its own activities against the goals set prior to the election. At the corporate level, the *areas of strategic focus* for the organization were reviewed and refined for the 40th General Election as follows:

1. implementing legislative requirements into electoral process
2. making the electoral process more accessible to voters
3. expanding assistance to political participants and voters
4. developing staff to provide quality service
5. enhancing service through effective communication and use of technology

Each department then developed detailed project plans for the period leading into the next general election.



ANNUAL ACTIVITIES

PROCESSING ANNUAL FINANCIAL RETURNS

To demonstrate compliance and maintain transparency with the public, political parties and constituency associations disclose their annual financial activities. Candidates are required to report the status of campaign deficits and loan balances annually as well.

Political Parties

Annual statements for 2007 were required to be filed by March 31, 2008 or by an approved extension date and were filed as follows:

Political Party	Extension Date <i>(if applicable)</i>	Filed Date
Communist Party of Canada - Manitoba	05-May-08	21-May-08
Freedom Party of Manitoba	21-Apr-08	21-Apr-08
Green Party of Manitoba	21-Apr-08	09-Apr-08
Manitoba Liberal Party	-	28-Mar-08
New Democratic Party of Manitoba	-	31-Mar-08
The Progressive Conservative Party of Manitoba	05-May-08	05-May-08

Registered Political Party Annual Financial Statements (2007)

	CPC-M \$	FPM \$	GPM \$	Lib. \$	NDP \$	PC \$
Income and Expenses						
Contributions ¹	3,707	343	5,476	113,391	574,010	568,619
Transfers	-	-	760	7,775	20,127	313,462
Other Income	981	-	4,720	146,853	789,359	1,147,450
Total Income	4,688	343	10,956	268,019	1,383,495	2,029,531
Expenses	9,325	-	9,316	156,109	975,213	1,126,483
Surplus (Deficit)	(4,637)	343	1,640	111,910	408,282	901,948
Assets and Liabilities						
Assets	3,681	-	4,260	35,398	437,616	710,163
Liabilities	8,863	-	-	15,512	238,155	728,848
Net Worth (Deficit)	(5,182)	-	4,260	19,886	199,461	(18,685)

¹ Excludes contributions received during the election period.

Contributions¹ Received by Registered Political Parties (2007)

	CPC-M \$	FPM \$	GPM \$	Lib. \$	NDP \$	PC \$	TOTALS
\$250.00 or More Total value \$	4,523	343	3,039	146,365	947,554	648,450	1,750,272
\$25.00 to \$250.00 Total value \$	2,007	-	6,095	72,327	345,668	276,530	702,627
Less Than \$25.00 Total value \$	162	-	1,111	2,816	13,542	24,423	42,055
Total of all Contributions \$	6,692	343	10,245	221,508	1,306,764	949,403	2,494,954

¹ Includes all contributions received during the year, including the election period.

Constituency Association Annual Returns for Contributions and Loans Reporting

Information regarding the balance remaining on a loan and contribution shall be provided to the Chief Electoral Officer by the person responsible for the finances of a constituency association.

Constituency association returns state the name and address of all contributors, as well as the aggregate value of their contributions to the constituency association during that year.

An aggregate annual contribution to the constituency association totaling \$250 or more is public information. Four of the five registered political parties have constituency associations. All four reported nil contributions of \$250 or more to any of their constituency associations.

None of the constituency associations had any outstanding loans as of December 31, 2008. There was one outstanding as of December 31, 2007 which was repaid during 2008.

Yearly Comparison of Constituency Associations Reporting Contributions of \$250 or More

YEAR	# OF CONSTITUENCY ASSOCIATIONS	REPORTING CONTRIBUTIONS OF \$250 OR MORE	TOTAL CONTRIBUTIONS OF \$250 OR MORE
1986	163	12	\$27,635
1987	161	6	\$9,152
1988	181	8	\$23,633
1989	187	2	\$2,472
1990	176	6	\$6,807
1991	172	2	\$925
1992	171	0	\$0
1993	171	0	\$0
1994	171	3	\$1,312
1995	171	1	\$2,039
1996	171	0	\$0
1997	171	4	\$10,536
1998	171	4	\$5,690
1999	171	8	\$11,637
2000	171	5	\$7,323
2001	171	4	\$1,895
2002	171	5	\$9,673
2003	171	2	\$940
2004	171	4	\$2,055
2005	171	3	\$2,595
2006	172	5	\$3,746
2007	174	8	\$6,315
2008	174	0	\$0

Candidates' Campaign Deficits and Loan Balances

From the PC Party of Manitoba leadership contest in 2006:

- One contestant reported outstanding loan and/or deficit balances at the end of 2008.

From the 2007 General Election:

- In 2008, 52 candidates reported deficit and loan balances. Of these candidates, 40 have reported that the outstanding loan and/or deficit balance was eliminated by the end of 2008.

Complete details can be found in the relevant returns which are available for viewing at Elections Manitoba or via Elections Manitoba's website.

Manitoba Tax Credits Claimed for Political Contributions (1982 - 2007)*

Tax Year	INDIVIDUAL	CORPORATE	TOTAL
	Returns \$	Returns \$	Credits \$
1982	293,500	54,200	347,700
1983	429,200	47,300	476,500
1984	520,400	69,000	589,400
1985	642,900	90,100	733,000
1986	863,356	119,598	982,954
1987	476,617	65,708	542,325
1988	1,115,750	136,091	1,251,841
1989	642,722	68,720	711,442
1990	1,019,617	93,542	1,113,159
1991	470,509	54,817	525,326
1992	512,373	38,387	550,760
1993	539,930	87,426	627,356
1994	634,297	91,109	725,406
1995	1,038,872	123,903	1,162,775
1996	558,774	87,700	646,474
1997	560,071	71,617	631,688
1998	553,526	82,243	635,769
1999	1,229,513	116,735	1,346,248
2000	562,901	98,876	661,777
2001	537,700	26,545	564,245
2002	623,059	6,037	629,096
2003	1,195,568	2,342	1,197,910
2004	728,462	2,018	728,462
2005	792,686	-	792,686
2006	944,841	-	946,859
2007	1,551,826	-	1,551,826
Total Tax Credits Claimed Since 1982	\$ 19,038,970	\$ 1,634,014	\$ 20,672,984

* As of January 1, 2001, contributions from corporations are not permitted under The Elections Finances Act. Credits claimed by corporations are for contributions prior to 2001.

IMPLEMENTING PUBLIC INFORMATION AND EDUCATION PROGRAMMING

Elections Manitoba continued to promote its *Your Power to Choose* curriculum-based election education program in 2008. Approximately 500 additional teacher guides were distributed on request and at various events. Communications staff also facilitated a workshop at a conference for adult educators (the Manitoba Education Research Network/Adult Secondary Education Council conference). Some materials and methods for teaching the electoral process to low literacy adults were piloted during the session. Elections Manitoba was also invited to speak at the Teacher's Institute on Parliamentary Democracy.

In support of the YPTC program, 35 in-class workshops were performed as well; 34 in English and one in French. More than 855 participants were reached as follows:

- 795 school-aged children and youth in 17 schools
- 60 adults in one adult learning centre

Elections Manitoba also undertook a redesign of its website in 2008. Both the infrastructure and the content of the site were updated. A content management system was implemented, a new site structure was developed, new graphic design was implemented and all the content was migrated over from the existing website. Testing of the new site was conducted in the fall of 2008 in preparation for a 2009 re-launch.

CONSULTING ADVISORY COMMITTEES

Elections Manitoba's objective is to consult with all registered political parties on an annual basis. It does so via legislated advisory committees under *The Elections Act* (EA) and *The Elections Finances Act* (EFA).

The EA Committee met on June 18 and October 22 of 2008. The EFA Committee met on June 25 and October 23, 2008. The 39th General Election and the impact of legislative change were the main topics discussed.

Elections Act Advisory Committee Members (2008)

Party	Committee Member
Communist Party of Canada - Manitoba	Darrell Rankin
Green Party of Manitoba	Michael Jack
Manitoba Liberal Party	Dennis Trochim
New Democratic Party of Manitoba	Sonia Kowalewich
The Progressive Conservative Party of Manitoba	Doug Schweitzer

Elections Finances Act Advisory Committee Members (2008)

Party	Committee Member
Communist Party of Canada - Manitoba	Darrell Rankin
Green Party of Manitoba	Vacant
Manitoba Liberal Party	Dennis Trochim
New Democratic Party of Manitoba	Kevin Dearing
The Progressive Conservative Party of Manitoba	Doug Schweitzer

DEVELOPING STAFF

Elections Manitoba encourages its staff to interact with peers across the country. There were a number of opportunities to share best practices in 2008:

- Elections Manitoba's Operations department hosted jurisdictional workshops in February of 2008. Sessions were held on a number of topics including set date elections, returning officer training and development, payroll for election officials and others.
- Elections Manitoba hosted representatives from Elections BC who shared information from their recent redistribution of electoral boundaries.
- Elections Manitoba's Education Coordinator attended a "Literacy: more than words" conference in March. This proved to be an excellent opportunity to learn more about low literacy learners and how that group might benefit from the *Your Power to Choose* program.
- Staff from Elections Ontario visited Elections Manitoba to learn more about its staffing and training and compliance review processes. Elections Saskatchewan visited to learn more about compliance assistance and information and technology.
- Elections Manitoba staff also observed electronic voting for municipal elections in New Brunswick, information sessions on payroll, inquiries and financial review in Ontario, and the annual meetings of the Conference of Canadian Election Officials in Québec.

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTIONS) ACT

The Public Interest Disclosure (Whistleblower Protection) Act came into effect in April 2007. This law gives employees a clear process for disclosing concerns about significant and serious matters (wrongdoing) in the Manitoba public service, and strengthens protection from reprisal. The Act builds on protections already in place under other statutes, as well as collective bargaining rights, policies, practices and processes in the Manitoba public service.

Wrongdoing under the Act may be: contravention of federal or provincial legislation; an act or omission that endangers public safety, public health or the environment; gross mismanagement; or, knowingly directing or counseling a person to commit a wrongdoing. The Act is not intended to deal with routine operational or administrative matters.

A disclosure made by an employee in good faith, in accordance with the Act, and with a reasonable belief that wrongdoing has been or is about to be committed is considered to be a disclosure under the Act, whether or not the subject matter constitutes wrongdoing. All disclosures receive careful and thorough review to determine if action is required under the

Act, and must be reported in a department's annual report in accordance with Section 18 of the Act.

The following is a summary of disclosures received by Elections Manitoba for fiscal year 2008 – 2009:

Information Required Annually (per Section 18 of <i>The Act</i>)	Fiscal Year 2008 – 2009 *
The number of disclosures received, and the number acted on and not acted on. <i>Subsection 18(2)(a)</i>	NIL
The number of investigations commenced as a result of a disclosure. <i>Subsection 18(2)(b)</i>	NIL
In the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and any recommendations or corrective actions taken in relation to the wrongdoing, or the reasons why no corrective action was taken. <i>Subsection 18(2)(c)</i>	NIL

GOVERNMENT ADVERTISING

Sections 56(1) & (1.1) of *The Elections Finances Act* regulate the kind of information a government department or Crown agency can publish or advertise leading up to and during elections and by-elections.

Any person who believes that a department or Crown agency has violated subsection (1) or (1.1) may file a complaint with the Commissioner of Elections.

Section 56(3) of *The Elections Finances Act* requires that, if the Commissioner of Elections finds that a complaint is justified, the Commissioner must advise the Chief Electoral Officer of the particulars of the violation. The particulars are then to be published in the Annual Report.

At the time of writing the 2008 Annual Report, the Commissioner, Michael T. Green, provided the following particulars to Elections Manitoba:

The Department of Agriculture and Food wrongfully published information about an activity during the period of two provincial by-elections held in March of 2009.

Specifically, Ms. Rosann Wowchuk, Minister of Agriculture and Food, announced during a speech to the Brandon Chamber of Commerce that the provincial government would be making a \$50,000 contribution towards the repair of the Trade Fair Building located in Brandon.

A complaint was received in connection with this announcement and in [the Commissioner's] view the complaint was justified.

The fact that Ms. Wowchuk had apparently sought the input of the Communications Branch beforehand does not, in [the Commissioner's] view, relieve the department from responsibility.



2008 ELECTORAL DIVISIONS BOUNDARIES COMMISSION

The Electoral Divisions Boundaries Commission delivered its final report to the Speaker on December 22, 2008. According to 2006 amendments to *The Electoral Divisions Act*, the report comes into force on the first dissolution of the Legislature to occur after the end of the year in which the report is submitted to the Speaker. It has the same force and effect as if it were enacted by the Legislature, as was previously the practice.

Highlights from the report:

- only one existing division's boundaries didn't change
- the breakdown of the number of divisions in Winnipeg (31) vs. the number outside Winnipeg (26) stayed the same
- ten division names were changed to better reflect the communities within the boundaries, for example, the northern division of Rupertsland was renamed Kewatinook, Cree for "from the North"

Highlights from the Commission:

- the 2008 Commission was comprised of five commissioners; representation was added from the North and from rural Manitoba (Brandon); members were:
 - Richard J. Scott, Manitoba Chief Justice (Chair)
 - Richard D. Balasko, Chief Electoral Officer
 - Denise K. Henning, President and Vice-Chancellor University College of the North
 - Richard Sigurdson, Dean of the Faculty of Arts University of Manitoba
 - Louis Visentin, President and Vice-Chancellor Brandon University
- it was an intensely consultative process:
 - the Commission held 12 public hearings in 10 communities throughout the province
 - the Commission heard 56 presentations at the public hearings and also considered 44 written submissions
 - three of the written submissions were signed by multiple individuals, so in total over 260 people participated directly in the public consultation part of the process

In addition to the Chief Electoral Officer being a member of the Commission, also noteworthy is the significant role Elections Manitoba staff played in support of the Commission, particularly in the Operations area where field expertise proved to be invaluable.

Complete details of the work of the Commission can be found in the *Final Report - 2008 Electoral Divisions Boundaries Commission* published by the Commission. The report can be downloaded from: www.boundariescommission.mb.ca



LOOKING FORWARD

In 2009, Elections Manitoba will complete its strategic plan for the next general election and begin to put into place the necessary systems and activities to put the plans in motion. Key service providers will be retained, necessary technological infrastructure will be developed and the first phase of Returning Officer and Assistant Returning Officer recruitment will be undertaken.

The work of implementing the new electoral boundaries will also be initiated. New maps will have to be produced for all but one of the 57 divisions. Voting areas will have to be redistributed on the new maps and voting places will have to be assigned to them. Data used to assist Returning Officers in their pre-writ work, such as lists of previous workers and voting locations, will also have to be redistributed. Finally, the street keys and voting keys used to determine which division a voter lives in and where he/she goes to vote will have to be created.

The change in boundaries also impacts the political participants, as new constituency associations must be set up for the new electoral divisions. Elections Manitoba, in its compliance assistance role, will provide information and resources to support this process.

Legislative changes from 2008 will precipitate significant work in 2009 as well. Enumeration will now occur outside the election period in the summer months, so approaches to enumeration will have to be re-thought. The job of designing a new address database for the province will also be undertaken. All jurisdictions find rural addressing a challenge and it will be important for Manitoba to find the best sources to use. Once sources are found, there will be significant work involved with building and maintaining the database.

The office will also continue to promote its public information and education program by building on the success of *Your Power to Choose* and identifying new opportunities to meet the needs of Manitobans, particularly those most likely to experience difficulties in exercising their democratic rights.

RECOMMENDATIONS

THE ELECTIONS ACT

Legislation allows the Chief Electoral Officer to recommend amendments to Manitoba's electoral law in order to improve and/or update the electoral process and better serve the electorate. The CEO's recommendations are published in Elections Manitoba's annual reports.

The CEO consults with the Advisory Committees when drafting recommendations; however, what is ultimately recommended is at the sole discretion of the CEO.

1. Twenty-eight day election period

s. 49(1) (c) clause(i)

Recommendation: Bill 37 establishes a set election date. It is recommended that section 49(1) (c) clause (i) be amended as well to establish a fixed period after the writ is issued rather than a variable period of at least 28 days but not more than 35 days from the issue of the writ.

Background: A set election date provides for greater service and efficiency in the conduct of elections as well as a more level playing field for all political participants. By eliminating the possibility of a variable election period this level playing field would be further enhanced and provide for clarity for all stakeholders. It would provide for an equitable management of election expenses by assisting campaigns to better manage their election expenses within the spending limit. It will also assist them to plan their operations and better manage incurring expenses in the non-election period and thereby prevent allocation issues of expenses between reimbursable election expenses and non-reimbursable non-election period expenses.

A set election period would also assist in recruiting election officials and may also assist in the recruitment of volunteer campaign workers.

BC and Ontario also have a set election dates and have a set election period of 28 and 29 days respectively.

2. Revision period

s. 77(1)

Recommendation: Shorten the revision period in section 77(1) to end on the third Monday before election day rather than the second Thursday before election day, to provide time to deliver the official list of voters to locations for the first Saturday of Advance voting.

Background: Section 77(1) stipulates that revision end on the second Thursday before election day therefore the revised voters list would be completed on the next day which is the second Friday before election day. Section 125(5) allows for advance voting to begin in any location the next day which is the second Saturday before election day. This would make it very difficult to complete the revised list of voters, print the official list and deliver it to Advance voting locations which are a distance from the returning office for that Saturday. As Saturday in many communities is an ideal day to hold advance voting, under the current act this may not be able to happen as an official voters list cannot reach distant or remote locations in time.

Even with shortening the revision period there would still be 25 days of revision following 33 days of enumeration which will allow for a substantial length of time to compile a complete voters list.

3. Access for campaigning

s. 195(1) and 195(5)

Recommendation: To make the process and requirements clear regarding campaigning in multiple residence buildings or complexes and communities (as defined in The Elections Act), sections 195(1) and 195(5) regarding access for campaigning be amended to state that producing identification or documentation confirming that he or she is a candidate or a representative of a candidate in an election be required upon request. A further amendment should be made that all candidate's representatives carry a prescribed form signed by the candidate or official agent designating them as a candidate's representative which would be presented upon request.

Background: When candidates or campaign workers visit multiple residence buildings and complexes or communities in order to campaign, provisions currently say that no person may interfere with, or prevent anyone who produces identification or documentation confirming that he or she is a candidate or a representative of a candidate from canvassing or distributing election material. The Act does not address when the documentation must be presented or what that identification or documentation should be. Elections Manitoba currently provides guidelines and generic forms for identification of candidate's representatives when visiting multiple unit buildings or communities; however there is no requirement for campaign workers to carry these forms. Scrutineers are required to have a prescribed form signed by the candidate or official agent in order to gain access to voting places. A similar prescribed form should be required to identify candidates and their representatives when campaigning in communities and other facilities as mentioned in section 195. A prescribed form for all candidates' representatives in these situations would eliminate any possible disputes over what is acceptable.

In order to prevent hampering the activities of candidate's representatives this documentation needs only be presented upon request.

4. Tariff of fees

regulation 88/2003;s. 203

Recommendation: That the tariff of fees be adjusted to establish an appropriate compensation level for all election workers for the next election and that vacation pay be paid as an entitlement in addition to the tariff rate.

Background: One way to participate in democracy is to work for Elections Manitoba administering the conduct of the election. These important positions include Returning Officers with the responsibility of overseeing the entire election in an electoral division, enumerators who are tasked with the responsibility of going door-to-door to build the voters list and thereby engage voters in the election process and voting officials who administer the vote at voting stations throughout Manitoba. Adequate compensation is critical in reducing the challenges associated with finding qualified individuals for every position during the election.

During the 2007 election, on several occasions, complaints were voiced to Elections Manitoba directly and publically that adequate payment was not made to employees in part due to the tariff specifying that all fees include vacation pay. Section 10 of The Election Fees, Expenses and Rentals Regulation 88/2003 (and amended by Regulation 75/2007) reads “The fees set out in the Schedule include any money payable as a vacation allowance under The Employment Standards Code.” The result of this is that those being paid minimum wage in the categories of revising agents and some clerical positions fall below the minimum wage if you factor out the vacation allowance. Adding the vacation allowance to wages seems to be a more equitable payment practice.

As per section 203 of The Elections Act changes to the tariff are made by the Lieutenant Governor in Council and it is customary to review the tariff before each election to ensure fair and adequate wages are paid to all election workers. Legislative changes which include the extension of the time period to build the voters list and extend the hours on Election Day will require a pay review for the officials conducting these processes.

5. Incorrect Reference

Recommendation: Section 49.1(2) be corrected by removing “and section 51.1”. Section 51.1 does not exist in the current Act.

THE ELECTIONS FINANCES ACT

Recommendations carried forward from previous annual report:

1. Candidate tax registration period

s. 25

Recommendation: To extend the tax registration period from the end of the candidacy period to four months after the election day.

Background: The current section states that an application to register must be made to the Chief Electoral Officer before the end of the candidacy period in order to issue income tax receipts for contributions received by a candidate in his or her campaign period. This pre-existing deadline for registration (end of candidacy period) was clarified in The Elections Finances Act pursuant to amendment in Bill 22, 2006.

Tax registration is optional and it was observed in 2007 that a few campaigns became aware of the need to be registered after the expiry of the tax registration deadline at the time of preparation of election returns which was after the end of the campaign period.

To address this concern and to provide extra time in recognition of the voluntary nature of the role of an official agent, it is being recommended that the deadline to register be extended to the filing deadline of the election returns, which will be four months after the election day.

2. Calculation of candidate's surplus or deficit

s. 75(1)

Recommendation: For the deficit calculation for section 75, the receipts should include income from sale of merchandise. This is a consequential change due to new sections on fundraising and contribution income which were added in the 2006 amendments to The Elections Finances Act.

Background: Section 75(1), candidate's deficit calculation takes into account income from all sources. When the new provisions of income from sale of merchandise were included in The Elections Finances Act through Bill 22 in December 2006, section 75(1) was not changed to include income from sale of merchandise.

New recommendations:

3. Candidate exceeding expense limit

s. 84(2)

Recommendation: To amend section 84(2) Candidate exceeding expense limit to include reference to section 54.1 Annual limit on advertising expenses. This is a consequential change due to the new amendments being added to The Elections Finances Act in January 2009. Section 84(2) should read: Every candidate who contravenes section 51 or 54.1 is guilty of an offence and is liable on summary conviction to a fine of \$5,000.

Background: The annual expense limit in the year of fixed date elections was a new amendment contained in Bill 37 which was given the Royal Assent on October 9, 2008. Section 84(1) Party exceeding expense limit does reference section 54.1. Hence, section 84 needs to be consistent with its application for a candidate and a party and include section 54.1 in both subsections.

4. General offences

s. 88

Recommendation: To amend section 88 General offences to include reference to section 56(1.1) Government advertising and publications in by-election. This is a consequential change due to new regulations on government advertising contained in the 2006 amendments in The Elections Finances Act.

Background: The Elections Reforms Act, which was introduced in 2006, separated provisions for general and by-elections on government advertising. The Act now deals with government advertising for general elections under section 56(1) and by elections under a new section 56(1.1). Prior to this, restrictions on government advertising in general elections and by elections were contained together in subsection 56(1) in The Elections Finances Act. To retain the original intent and to ensure consistency between general elections and by-elections for a breach of government advertising rules, section 88 should include section 56(1.1) along with 56(1).

Other Acts Relevant to the Conduct of Elections

The following recommendation is carried forward from the 2006 Annual Report.

1. Referendum regulations

Recommendation: That a *Referendum Act* be developed. The act should deal with the administrative conduct of referendums and campaign finance provisions.

Background: At the May 2, 2006 meeting of the Standing Committee on Legislative Affairs, the Premier of Manitoba proposed bringing in a *Referendum Act* after the next general election. There are now three statutes in Manitoba that require a referendum to be held under certain circumstances. They are:

1. *The Balanced Budget, Debt Repayment and Taxpayer Protection Amendment and Consequential Amendments Act ('The Balanced Budget Act')*
2. *The Manitoba Hydro Act*
3. *The Manitoba Public Insurance Corporation Act*

All three Acts instruct the Chief Electoral Officer to conduct and manage the referendum in the same manner as an election under *The Elections Act* with any necessary modifications.

Many provisions of *The Elections Act* are readily transferable to a referendum; however, some provisions are not.

The following questions need to be addressed in either an Act or regulation:

- How and when, precisely, is the referendum question established?
- What is the duration of the referendum period given that no nomination period exists?
- Are there to be referendum committees? How are they to be established, registered and/or regulated? May referendum committees appoint scrutineers to be present at the voting stations?
- Would there be unique referendum recount rules?
- Who may apply for a recount?
- May referendums and elections be held simultaneously?
- Does the same tariff for payment of officers apply?
- Are there to be “referendum” offences?

The Acts also allow for the possibility that the subject of campaign finance be included in either a *Referendum Act* or regulations. General elections have campaign finance provisions for such participants as candidates and political parties. Referendums should contain similar campaign finance provisions for groups and individuals participating in a referendum (i.e. referendum committees).