

Appendix C

Section 92 (*The Municipal Act*)

PART 3 COUNCILS

DIVISION 2 ELECTIONS

RIGHTS OF EMPLOYEES IN ELECTIONS

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Definition

92(1) In this section "**employee**" means a person employed by a municipality or by a body, all the members of which, or all the members of the board of management or board of directors of which, are appointed by the council of a municipality, but does not include a person who volunteers services to the municipality, whether or not the person receives reasonable compensation or expense money from the municipality for his or her voluntary service.

Rights of employees in elections

92(2) An employee may

- (a) subject to subsection (3), seek nomination as, and be, a candidate in a municipal, provincial or federal election and, if elected, serve; and
- (b) support, speak or write on behalf of a candidate or a political party in an election, if in doing so the employee does not reveal any information or matter concerning the municipality or body by which the employee is employed, or any information that the employee procures or that comes to the

employee's knowledge solely because of the employment.

Exception of chief administrative officer

92(3) Clause (2)(a) does not apply to a chief administrative officer in respect of the municipality by which the officer is employed.

Leave of absence for municipal election

92(4) An employee who proposes to become a candidate for election as a member of the council of the municipality by which he or she is employed may apply to the chief administrative officer, on or before the last day for the nomination of candidates, for a leave of absence for a period starting on the last day on which nomination papers may be filed and ending not later than 30 days after the day on which the results of the election are officially declared, or for any part of that period, and every such application must be granted.

Candidacy in other elections

92(5) An employee who proposes to become a candidate for election as a member of the Legislative Assembly or the House of Commons may apply to the chief administrative officer for leave of absence for a period starting on the day on which the writ for the election is issued and ending

(a) where the employee is nominated as a candidate, not later than 30 days after the day on which the results of the election are officially declared; and

(b) where the employee is not nominated as a candidate, not earlier than the day fixed by law for the nomination of candidates in the election;

or a part of the applicable period of time, as requested by the employee; and every such application must be granted.

Nature of leave of absence

92(6) A leave of absence granted under subsections (4) and (5) must be granted

(a) where the employee is entitled to vacation leave with pay, and the employee

so requests, as vacation leave with pay until the vacation leave with pay expires and after that time as leave without pay; or
(b) as leave without pay.

Election as member of council or committee of L.U.D.

92(7) An employee who is elected as a member of the council or the committee of a local urban district in the municipality by which the employee is employed must be placed on a leave of absence without pay for a period starting on the date of the election and ending on the earlier of

- (a) the expiry of eight years and one month after the day of the election; and
- (b) one month after the employee ceases to be a member of the council or committee.

Election as M.L.A. or M.P.

92(8) An employee who is elected to the Legislative Assembly or the House of Commons may apply to the municipality for a leave of absence without pay for a period starting on the day of the election and ending on the earlier of

- (a) the expiry of five years and four months after the day of the election; and
 - (b) three months after the employee ceases for any reason to be a member of the Legislative Assembly or House of Commons;
- and every such application must be granted.

Reinstatement of defeated candidate

92(9) An employee who is granted a leave of absence under subsection (4) or (5) and who is not elected must, on application before the expiry of the leave of absence, be reinstated to

the position held immediately before the date of the leave of absence.

Reinstatement of elected candidate

92(10) An employee who is placed on or granted a leave of absence under subsection (7) or (8) may, before the expiry of the leave of absence, apply to the municipality to be reinstated and, as long as the employee is not a member of the council, the employee must, within 60 days, be reinstated to the position held immediately before the date the leave of absence is granted or to a reasonably equivalent position.

Rights during leave of absence

92(11) Where a person is placed on or granted a leave of absence under this section,

- (a) the period of service before the leave of absence begins, and the period of service after the leave of absence ends, is deemed for all purposes to be unbroken; and
- (b) the period of the leave of absence, for the purpose of determining the seniority of the employee in relation to other persons in that employment, is deemed to be a period of service in the employment of the municipality.

Other benefits

92(12) The rights of an employee to benefits to which employees are entitled during the period of a leave of absence must be determined in accordance with the terms of the collective agreement or other agreement or a policy of the municipality under which the benefits are provided, and the period of the leave of absence must be treated, for the purpose of qualification for a benefit, in accordance with the agreement or policy.