

Third Session – Forty-Second Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr. Dennis Smook
Constituency of La Vérendrye

MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

Member	Constituency	Political Affiliation
ADAMS, Danielle	Thompson	NDP
ALTOMARE, Nello	Transcona	NDP
ASAGWARA, Uzoma	Union Station	NDP
BRAR, Diljeet	Burrows	NDP
BUSHIE, Ian	Keewatinook	NDP
CLARKE, Eileen	Agassiz	PC
COX, Cathy, Hon.	Kildonan-River East	PC
CULLEN, Cliff, Hon.	Spruce Woods	PC
DRIEDGER, Myrna, Hon.	Roblin	PC
EICHLER, Ralph, Hon.	Lakeside	PC
EWASKO, Wayne, Hon.	Lac du Bonnet	PC
FIELDING, Scott, Hon.	Kirkfield Park	PC
FONTAINE, Nahanni	St. Johns	NDP
FRIESEN, Cameron, Hon.	Morden-Winkler	PC
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin, Hon.	Steinbach	PC
GORDON, Audrey, Hon.	Southdale	PC
GUENTER, Josh	Borderland	PC
GUILLEMARD, Sarah, Hon.	Fort Richmond	PC
HELWER, Reg, Hon.	Brandon West	PC
ISLEIFSON, Len	Brandon East	PC
JOHNSON, Derek, Hon.	Interlake-Gimli	PC
JOHNSTON, Scott	Assiniboia	PC
KINEW, Wab	Fort Rouge	NDP
LAGASSÉ, Bob	Dawson Trail	PC
LAGIMODIERE, Alan, Hon.	Selkirk	PC
LAMONT, Dougald	St. Boniface	Lib.
LAMOUREUX, Cindy	Tyndall Park	Lib.
LATHLIN, Amanda	The Pas-Kameesak	NDP
LINDSEY, Tom	Flin Flon	NDP
MALOWAY, Jim	Elmwood	NDP
MARCELINO, Malaya	Notre Dame	NDP
MARTIN, Shannon	McPhillips	PC
MICHALESKI, Brad	Dauphin	PC
MICKLEFIELD, Andrew	Rossmere	PC
MORLEY-LECOMTE, Janice	Seine River	PC
MOSES, Jamie	St. Vital	NDP
NAYLOR, Lisa	Wolseley	NDP
NESBITT, Greg	Riding Mountain	PC
PEDERSEN, Blaine	Midland	PC
PIWNIUK, Doyle	Turtle Mountain	PC
REYES, Jon, Hon.	Waverley	PC
SALA, Adrien	St. James	NDP
SANDHU, Mintu	The Maples	NDP
SCHULER, Ron, Hon.	Springfield-Ritchot	PC
SMITH, Andrew	Lagimodière	PC
SMITH, Bernadette	Point Douglas	NDP
SMOOK, Dennis	La Vérendrye	PC
SQUIRES, Rochelle, Hon.	Riel	PC
STEFANSON, Heather	Tuxedo	PC
TEITSMA, James	Radisson	PC
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WHARTON, Jeff, Hon.	Red River North	PC
WIEBE, Matt	Concordia	NDP
WISHART, Ian	Portage la Prairie	PC
WOWCHUK, Rick	Swan River	PC
<i>Vacant</i>	Fort Whyte	

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS**

Wednesday, October 13, 2021

TIME – 6:40 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Dennis Smook
(La Vérendrye)**

**VICE-CHAIRPERSON – Mr. Shannon Martin
(McPhillips)**

ATTENDANCE – 6 QUORUM – 4

Members of the Committee present:

Hon. Mr. Goertzen, Hon. Mrs. Guillemard

*Ms. Fontaine, MLA Marcelino, Messrs. Martin,
Smook.*

APPEARING:

*Ms. Shipra Verma, Chief Electoral Officer,
Elections Manitoba*

MATTERS UNDER CONSIDERATION:

*Proposal to Modify the Voting Process titled
"Vote Anywhere in your Electoral Division On
Election Day" dated November 2020*

*Proposal to Modify the Voting Process titled
"Vote By Mail–Byelection" dated October 2021*

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Clerk Assistant (Mr. Tim Abbott): Good evening. Will the Standing Committee on Legislative Affairs please come to order.

Before the committee can proceed with the business before it, we need to elect a Chairperson. Are there any nominations?

Mr. Shannon Martin (McPhillips): I would like to nominate Mr. Smook, please.

Clerk Assistant: Mr. Smook has been nominated. Are there any other nominations? Seeing none, Mr. Smook, please take the Chair.

Mr. Chairperson: Our next item of business is the election of a new Vice-Chairperson. Are there any nominations?

Hon. Sarah Guillemard (Minister of Conservation and Climate): I nominate Mr. Martin.

Mr. Chairperson: Shannon Martin has been nominated—or, Mr. Martin has been nominated. Are there any other nominations?

Hearing no other nominations, Mr. Martin is elected Vice-Chairperson.

This meeting has been called to consider the following: Proposal to Modify the Voting Process titled "Vote Anywhere in your Electoral Division On Election Day" dated November 2020; and Proposal to Modify the Voting Process titled "Vote By Mail–Byelection" dated October 2021.

For the information of the committee, subsection 28.1(4) of The Elections Act states that: Before directing a modification to the voting process, the Chief Electoral Officer must submit a written proposal to the Standing Committee on Legislative Affairs describing the proposed modification.

Pursuant to subsection 28.1(5): If the standing committee approves the proposal, with or without changes, the Chief Electoral Officer may direct that the voting process be modified in accordance with the approval. Alternatively, the standing committee may reject the proposal or continue consideration at a future meeting.

Before we get started, are there any suggestions from the committee as to how long we should sit this evening?

Hon. Kelvin Goertzen (Minister of Legislative and Public Affairs): Until the work of the committee is complete.

Mr. Chairperson: It has been proposed that the committee shall sit until the work of the committee is completed. All in favour? *[Agreed]*

Does the honourable minister wish to make an opening statement, and would they please introduce the officials in attendance?

Mr. Goertzen: I want to thank representatives from the Chief Electoral Officer's office and, of course, the Chief Electoral Officer herself for being here today and for her proposals—her well-considered proposals that I know have taken some time to get to this point of deliberation.

But we appreciate the time that you've put into providing us with information and, in particular, I know there was a YouTube presentation that you put together for—or it ended up on YouTube anyway—for members regarding tabulators, and that was very helpful and instructive.

So thanks for all the work you did in showing members how the different technology options work and I think that's been helpful to get to this point.

Mr. Chairperson: We thank the honourable minister.

Does the critic for the official opposition have an opening statement?

Ms. Nahanni Fontaine (St. Johns): Again, I'm going to agree with my colleague opposite. We've been agreeing a lot today, so that's interesting.

I do want to thank you for all of the work that you do. I think that—and I was telling my colleague here that I actually really enjoy when we have standing committee meetings with you. I find I learn a lot and you are incredible knowledgeable and brilliant about the work that you do, and I think that everybody at the table can attest to how committed you are to our democracy as a province. And so I really do enjoy the time that we get to spend with you.

And, once again, *miigwech* for the all of the work that you and your office do, and I'm looking forward to tonight. *Miigwech*.

Mr. Chairperson: We thank the member for her remarks.

Does the Chief Electoral Officer, Ms. Shipra Verma, wish to make an opening statement, and will she please introduce her colleagues joining her this evening?

Ms. Shipra Verma (Chief Electoral Officer, Elections Manitoba): Thank you, Mr. Chairperson and the members of the committee, for inviting me and my staff to outline our proposal.

Today, I have with me the deputy chief electoral officer, Ms. Debbie MacKenzie, and director of electoral operations, Ms. Jeanne Zwiep, with me.

Today, we are here to discuss the two proposals. The first one, Vote Anywhere in your Electoral Division On Election Day, was discussed on December 7th in the standing committee, followed by demonstrations that we had provided to each caucus on the tabulator system and the technology that we had outlined. Today, my focus would be more on the vote by mail proposal in a by-election.

We are putting forward a proposal for vote by mail in a by-election, to respond to public health concerns resulting from the ongoing pandemic. In provincial elections held across Canada during the last 16 months, as well as the recent federal election, we have seen other jurisdictions make the option to vote by mail widely available.

Voting by mail is a practical and convenient option when public health orders are in place, and it has evolved to become an expectation of the public.

We are proposing that this option be in effect for any by-election held before the next general election. Vote by mail would be a modification of the voting process that builds on current absentee voting provisions. Under the current legislation, voting by mail is an option only for voters who'll be away on election day and during advance voting and for homebound voting.

We are proposing to offer the mail option to all voters who prefer not to vote in person at a polling place. The assumptions here are—and the considerations: that in-person voting will be available during advance and on election day. The current by-election calendar will remain the same.

The mail-in ballot option uses the same option as the current absentee process, issuing a write-in ballot and allowing voters to write either a candidate name or the party's name. Applications for mail-in voting will be available online and in person at the returning office. The voter must provide ID to receive a ballot. They must also sign an oath on the certificate envelope stating that they're eligible to vote and have not previously voted.

Each application will be reviewed to confirm voter eligibility. Once a package is issued, the voter would be struck from the list and will not be able to vote again. The deadline to apply for a mail-in ballot would be same as for absentee voting, which is three days before election day. Scrutineers will—can witness the counting of mail-in ballots and parties who have endorsed a candidate will receive regular updates on who has been issued a vote by mail package.

All packages which are received by Elections Manitoba would be verified by ensuring the voter has signed the oath and provided their full date of birth information. The date of birth information is the information which will be used to validate the application. Once the application has been approved, the voter record would be updated to show that the ballot had been returned. Ballots will be accepted up until 8 p.m.

on election day, either by mail or in person; they can be returned to the returning office or the head office.

* (18:50)

All mail-in ballots will be hand counted at the returning office following the current process in place for absentee ballot applications. Scrutineers can witness the count.

In conclusion, making the vote by mail option available for a by-election held during a pandemic meets the public expectations to provide an additional safe voting experience that has been available elsewhere in Canada. This option will be available in addition to in-person voting, ensuring accessibility for voters who may not be comfortable voting in person. This method adheres to the key principles of election integrity such as making voting accessible to all, ensuring that each voter only votes once, requiring ID, allowing scrutineers to witness the count and maintaining the secrecy of the ballot.

Accordingly, our office is recommending that we modify the relevant sections to allow for broader use of vote by mail for by-elections held until the next general election.

That concludes my remarks for today. I thank you for your time and attention, and I'll be happy to take any questions on either proposal.

Thank you.

Mr. Chairperson: We thank the Chief Electoral Officer for her comments.

The floor is now open for questions.

Mr. Goertzen: Thank you again, Ms. Verma, for your report.

Just on the issue of mail-in ballots. So you reference it specifically to pandemic voting. Is it your view, then, this is specifically for the pandemic or is this something with longer term applications?

Ms. Verma: At this time the proposal is looking just at a by-election during a pandemic. We will be presenting a report post the by-election on how successful the proposal has been. If we see a merit in its usage for a longer term or on a permanent basis for a general election, we will make a recommendation thereafter.

Ms. Fontaine: So just to be clear, and I appreciate my colleague's question, so the vote-in—the mail-in ballots proposal is just for the potential or upcoming by-election and—sorry, let me just—and then the tabulators

are also only for the by-election or is that for, in its totality, long term?

Ms. Verma: So the mail-in ballot proposal is specifically for the by-election. The vote anywhere in your electoral division was for the general election.

What we are also looking at is, just like what we did in the—during the St. Boniface by-election, we did a shadow process. What we are planning is in this by-election, we do a shadow process on real-time strike-off on election day and the party portal, not the tabulator.

That will allow us to see how the technology, how effectively we can use it. Are there any potential concerns there? And it will also allow the real-time strike-off will allow the party portal to be live so people who are voting will be struck off the voters list and replaced by the bingo sheet. The bingo sheet will still be available, but an alternative medium would be available for parties to see the—how the real-time strike-off works, but not use the tabulator for the by-election.

Ms. Fontaine: You wouldn't want to use the tabulators just to see, like a practice run in respect of any problems or issues or concerns or, actually, benefits to it moving forward towards a general election?

Ms. Verma: In order to use the tabulators, there are certain procurements that we'll have to do, which—we are not there yet because the proposal is still under consideration. So if there is an option to use the tabulator during a by-election, it would depend on the timing of the by-election.

Currently, the market is—because of the pandemic, the demand and supply situation has changed since the time we had originally submitted the proposal so costing, delivery of the tabulators and the associated technology which will go with it is also—there's a time difference there. So we don't want to commit to something that we are not fully prepared that we can deliver.

Mr. Goertzen: So just on the issue of the electronic strike-off, I—that had been used during the advance polls before, is that correct?

Ms. Verma: Yes, that is correct. So that is still something that we'll be using for the by-election. This is part of the tabulator proposal that we had submitted to do the real-time strike-off on election day, too. So that would be the shadow process because the proposal is still under consideration.

Ms. Fontaine: Are there any issues with one part, like the strike-off being brought forward in section 28 and the other by legislation, like the tabulators?

Ms. Verma: This is a shadow process. So the regular process would still be in function, the shadow process is something we—which we are doing extra. So as per the legislation, that is not part of the section 28 modification that we'll be conducting. This is—you'll have a voting officer do the way the regular ballot is processed, still have a bingo sheet, we'll have an additional station behind that to do the shadow process.

Also for the by-election, just to note: because of the pandemic situation, we will be going with one voting officer rather than two at a poll, for issuing the ballot and striking off the voter. But for the count purposes, the person who is doing the shadow process will join in to do the counting, so we will have two people for the counting.

Mr. Goertzen: I think this might go to my friend, the Opposition House Leader's question. So my understanding was from Legislative Counsel that to enact the tabulator portion of this proposal, there would need to be a legislative change. Is that your understanding as well?

Ms. Verma: Our understanding was that, when we submitted the proposal under section 28, there are three criteria under section 28 under which the proposal was submitted. So we believe that the use of tabulator meets the three criteria. However, we—there is a—there was some discussion with Leg. Counsel around it that there might be a scope issue on the use of tabulator and the three criteria which are listed under section 28.

The discussion has rested.

Ms. Fontaine: Yes, and I guess that that's a little bit confusing or not very clear there.

So I'm also just wondering if this potentially opens up The Elections Act. Like, if we start looking at the tabulators and the potential—and again, I don't know if there's legislation that needs to—does it open up the whole Elections Act?

Ms. Verma: So just to clarify, I want to kind of rewind a little bit and start from the beginning.

So there are two proposals here that we are discussing. The vote by mail proposal is simply expanding the absentee provision which is currently in the legislation and is available for homebound to any member of the public. That doesn't change The Elections Act, it doesn't open it up completely; that is

specifically because of the pandemic situation that we are here, we are adapt—we want to adapt the provisions to adjust to voter expectations and meet the safety requirements.

The second proposal which was introduced in December, which is on use of tabulators. So it has few components: it has real-time strike-off on election day. It is allowing for vote anywhere in your electoral division. If you allow for vote anywhere in your electoral division, if you need the results by voting area, then we need tabulators. If you need the results by just the voting place where a person has voted because it's one list and it will get updated, we do not need tabulators.

*(19:00)

The reason why we submitted the proposal under section 28 is there's heavy investment in it. There's also a significant change in the way the voters will be marking the ballot, the process and if there are any learnings that we have from the election, then we will have a better understanding of what recommendations to bring forward for legislative amendment.

When it comes to how to make changes to The Elections Act, I would defer to the subject matter expert, the Legislative Counsel.

Ms. Fontaine: In respect of the by-election, which is soonish, I'm assuming, is it a requirement for staff or anybody that's working that particular by-election, in any of the polls, is it a requirement for folks to be fully vaccinated?

Ms. Verma: Any staff who'll be attending—going to a personal-care home, dealing directly with people who are vulnerable, they would require to be vaccinated. For the rest, we'll be following the public health guidelines. So I'll have to—I'm going to discuss that with Dr. Roussin's office to have a better understanding on should the vaccine mandate be there for all election workers or not. Apart from that, we would be following other safety measures: regular sanitization of the polling places; the mask requirement would be mandatory for voting places; we would also have the Plexi-shields for voting stations. That is the reason we are recommending one voting officer at the voting station to process the vote, but then have two people to do the count.

So these are the other safety measures that we are looking at implementing.

Ms. Fontaine: That could involve COVID testing within a particular time frame of the election. Could

that also involve that? If the vaccine is—if you, in your discussions with Dr. Roussin, isn't mandatory, then it could potentially also involve testing.

Ms. Verma: It may. I still have to see what Dr. Roussin's office recommends and then see how we can administer it. We are—in an application we would encourage people to be vaccinated. At this time we are not considering making it mandatory for vaccinations, but it's dependent on what Dr. Roussin's office suggests.

Ms. Fontaine: So—and it's not necessarily a question for Ms. Verma; it's more of a question for the Premier (Mr. Goertzen). I don't know if its—or maybe just to put it on—

An Honourable Member: It's not question period.

Ms. Fontaine: —yes, I know—is whether or not, you know, and, again, I know we're just looking at these, but maybe to suggest or put it on the record or to begin to—those discussions on not opening up the whole Elections Act, if we proceed with some of these other things, I'm sure you know where I'm going with this. So I'm putting that on the record, though.

Mr. Goertzen: Yes, I understand the House leader's concerns, so I mean I'll bring forward a motion that would deal with Leg. Counsel's recommendation that this should be done by legislation, tabulator issue, and that it's specific to the issue of tabulators for the next general election.

Mr. Chairperson: Are there any further questions?

Mr. Goertzen: So, I have three motions for the committee and I'll just, of course, deal with them individually.

Perhaps dealing with mail-in ballots one first because the other two are related.

So, the motion is: I move

THAT pursuant to subsection 28.1(5) and subject to subsection 28.1(6) of The Elections Act, the Standing Committee on Legislative Affairs approve the proposal to modify the voting process tabled in the House on October 7th, 2021 and recommend that the Chief Electoral Officer direct that the voting process be modified for any upcoming by-elections occurring before April 1st, 2022.

Motion presented.

Mr. Chairperson: The motion is in order.

The floor is open for questions.

Mr. Goertzen: Just to speak to this—so, I appreciate—and it went to my question to the Chief Electoral Officer about whether this was primarily an issue of pandemic preparedness—the mail-in ballot proposal.

So I think that this aligns with what the Chief Electoral Officer is asking for, except that it put the time limit on April 1st, 2022. And that's not because we're in disagreement at all with the use of mail-in ballots during the pandemic—we're in favour of it and appreciate the proposal—it's just more, we don't know when the pandemic's going to end. And we all hope it'll end sooner than later but we do know that we'll be in a by-election before this date, given the open seat in Fort Whyte and the rules governing the calling of a by-election within six months.

So we're essentially saying that we should do it that by-election and then see what the state of the pandemic is. But, of course, if there was another by-election, you know, later next year and we're still in the same situation, I think we'd be prepared to do it again but we don't want to, sort of, presume that the pandemic was going to last two years. We're all hoping it does not.

Ms. Fontaine: Just a question on this motion. It—is there—the government planning a by-election in 2021?

Mr. Goertzen: Well, there's one seat that's currently vacant, unless something's happened since I last checked, but—and that's the Fort Whyte by-election had to be called within six months of the resignation of the former premier.

So I don't know the date of the by-election but that's the timeframe for which it has to be called within.

Mr. Chairperson: Are there any further questions?

Is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: The question before the committee: shall the motion pass? *[Agreed]*

Mr. Goertzen: So, the second of three motions: So I move

THAT pursuant to subsection 28.1(5) and subject to subsection 28.1(6) of The Elections Act, the Standing Committee of Legislative Affairs approve the aspects pertaining to the electronic strike-off contained within the proposal to modify the voting process tabled in the House on December 1st, 2020, and recommend that the Chief Electoral Officer implement all aspects

governing the adoption of electronic strike-off before the next general election.

Motion presented.

* (19:10)

Mr. Chairperson: The motion is in order. The floor is open for questions.

Mr. Goertzen: So just on the motion, I think that there was general party agreement or all-party agreement that the electronic strike-off worked well in the advance poll. And I understand from the Chief Electoral Officer that the idea is to shadow this then in the by-election more generally so that it can be tested and then hopefully it would be ready for the next general election. But it seemed like all the parties felt there was a useful tool in the advance poll and so it makes sense to move it forward in the general election in two years.

Ms. Verma: I would just like to clarify that it's the will of the House that the real-time strike-off be a shadow process or be actually implemented in the next by-election?

Mr. Goertzen: So, the motion would read that it would be adopted for the next general election, but my understanding was you were proposing to do it as a shadow for—in the by-election.

Ms. Verma: We can do the shadow process or we can even adopt it during the by-election, too, if that is something that the House would like to consider.

Mr. Goertzen: I think this motion is just for the next general election, so I think we'll probably be more comfortable staying with that.

Mr. Chairperson: Are there any further questions? Is the committee ready for the question?

Shall the motion pass? *[Agreed]*

Mr. Goertzen: So, third motion. I move:

THAT pursuant to section 28.1(4) of The Elections Act, the Standing Committee on Legislative Affairs has completed consideration of the proposal to modify the voting process tabled in the House on

December 1, 2020, and does not approve the aspects of the proposal pertaining to electronic tabulators at this time, but recommends that legislation be brought forward to implement all aspects governing the adoption of electronic tabulators for the next general election.

Motion presented.

Mr. Chairperson: Shall the motion—oh, sorry. The honourable—the motion is in order. The floor is open for questions.

Mr. Goertzen: So, just for clarification then: I know it sounds at the beginning part of this motion that we're not approving something, but we actually do approve of the tabulators—use of the tabulators. Understand it's worked well in other provinces and the city of Winnipeg, and folks seem to be satisfied by the demonstrations they were provided, and there was an assurance, of course, that the ballots are kept and audit functions can happen, and so that speaks to the integrity of the process.

This is simply because there was different advice provided to us by Legislative Counsel that this would be better done by legislation, and we don't want this to be in any way not done for sure the right way and you should take the advice of Legislative Counsel on this. So our commitment, then, is to bring forward legislation on this item alone in this act on tabulators and to bring it to the House for consideration prior to the next general election.

Mr. Chairperson: Any further questions?

Is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Shall the motion pass? *[Agreed]*

This completes the business before tonight's committee. It is—the hour being 7:16, what is the will of the committee?

An Honourable Member: Rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 7:16 p.m.

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