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Item No. 13.1.1
Executive Standing Committee
October 23, 2023

TO: Mayor Savage and Members of Executive Standing Committee

SUBMITTED BY:



Cathie O'Toole, Chief Administrative Officer

DATE: September 8, 2023

SUBJECT: 2022 District Boundary Review Phase One: Electoral Reforms requiring
Legislative Amendments

ORIGIN

June 14, 2022, motion of Halifax Regional Council directing the Chief Administrative Officer to return to Council with a report on the potential electoral reforms set out in the body of the staff report dated April 7, 2022, including any necessary legislative amendments.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, SNS 2008, c 39, s. 364:

364 Part XVI of the Municipal Government Act applies to the Municipality.

Municipal Government Act, SNS 1998, c 18, s. 369:

369 (1) In the year 1999, and in the year 2006 and every eight years thereafter the council shall conduct a study of the number and boundaries of polling districts in the municipality, their fairness and reasonableness and the number of councillors.

(2) After the study is completed and before the end of the year in which the study was conducted the council shall apply to the Board to confirm or to alter the number and boundaries of polling districts and the number of councillors

Municipal Elections Act, RSNS 1989, c 300

RECOMMENDATION

It is recommended that Executive Standing Committee forward this report to Halifax Regional Council as an information item.

BACKGROUND

This report examines the electoral reform items that were identified during the Boundary Review project and provides information on the steps that are required to obtain the legislative authority to apply them to future municipal elections. Throughout the public engagement activities for Phase One, Council identified several electoral reforms that are out of scope for the District Boundary Review. In addition to this, Halifax Regional Council directed that the Chief Administrative Officer prepare a report on the necessary legislative amendments required to enable the following:

- The inclusion of designated or protected seats for specific groups (African Nova Scotian, Francophonie, Indigenous representation)
- Reducing the voting age to 16 years of age
- Extending voting and candidacy rights to landed immigrants/new Canadians.
- The use of a ranked ballot or run-off ballot system
- Adding Permanent Residents to the list of electors to vote in municipal elections.

DISCUSSION

Designated or Protected Seats for specific groups

The Municipal Government Act (MGA) requires that all municipalities in Nova Scotia conduct a review of the number and boundaries of polling districts in the municipality on a regular basis. The final decision on municipal polling districts and boundaries is made by the Nova Scotia Utility and Review Board (NSUARB) and is binding on the municipality. The 2022 District Boundary Review Study for the Halifax Regional Municipality is complete, and an application has been submitted to the NSUARB. In accordance with section 368(4) of the MGA, in determining the number and boundaries of polling districts the Board is required to consider number of electors, relative parity of voting power, population density, community of interest and geographic size.

While there is currently no mechanism to allow for officially designated or protected municipal districts within Nova Scotia, in some jurisdictions districts have been designed around specific communities of interest. In the Municipality of Guysborough, electoral boundaries have been created to ensure the representation of predominantly African Nova Scotian Communities of Lincolnville, Sunnyville and Upper Big Tracadie. Similarly, the Municipality of Argyle designed its electoral map along historic and linguistic lines¹. It should be noted that neither of these districts have been officially designated as exceptional or protected districts. This is in keeping with the some of the changes proposed in the Halifax Regional Municipality's 2022 District Boundary Review application whereby historic African Nova Scotian Communities were considered as communities of interest within the review.

The Municipality does not have the authority to establish protected or designated districts for African Nova Scotian, Acadian, and indigenous representation. The Municipality can consider communities of interest when proposing district boundaries to the NSUARB, but these communities of interest must be considered in tandem with number of electors, relative parity of voting power, population density, and geographic size, and the final decision on municipal polling districts and boundaries in the municipality rests with the NSUARB. If Council is interested in pursuing changes to the process for determining municipal polling districts and boundaries, amendments to the MGA would be required to and a letter to the Province of Nova Scotia requesting this be considered could be directed. The Province of Nova Scotia has considered this provincially. In 2019 the Province of Nova Scotia implemented the recommendations of the 2019 Electoral Boundaries Commission report and restored four protected ridings (exceptional electoral districts) for African Nova Scotian and Acadian voters. These ridings include the ridings of Argyle, Claire, and Richmond as well as the riding of Preston.

¹ The Commission on Effective Electoral Representation of Acadian and African Nova Scotians: Representation: Toward More Effective Representation for Acadian and African Nova Scotians, 2018 pg 15 <https://novascotia.ca/representation/Representation-Toward-More-Effective-Representation-For-Acadian-and-African-Nova-Scotians-Report-and-Recommendation.pdf>

Reducing the voting age to 16 years of age

Section 14 of the *Municipal Elections Act* (MEA) requires voters in municipal elections in Nova Scotia to be at least 18 years of age on the first advance polling day.

There has been a great deal of study and debate among decision makers at all order of government, legal scholars, academics, and election administrators respecting youth and the right to vote in Canada for the last five decades. In 1991, the Royal Commission on Electoral Reform and Party Financing explored the idea of reducing the voting age from 18 to 16 years of age. Arguments that were made in favour of reducing the voting age requirement in Canada were to avoid age discrimination under the Charter of Rights and Freedoms, increasing youth participation while they are still in school and studying civics.²

The Commission held numerous public opinion surveys and found that most Canadians did not support reducing the voting age, primarily due to “legal age of majority being 18 years of age and that minors are treated in many different spheres of Canadian life, including the criminal justice system” and that for “those under 18, parental consent is required for many important decisions, such as getting married or seeking certain medical treatments..³ The Commission recognized in its decision that any alterations to the minimum age for voting involves a judgement from society when individuals reach maturity as citizens and that the matter should be reconsidered from time to time as those social determinations change.

Several American cities in California and Maryland have passed legislation lowering the voting age from 18 to 16 for school board and local elections. They are as follows:

- Berkeley, California – school board elections
- Oakland, California – school board elections
- Greenbelt, Maryland – all local elections
- Hyattsville, Maryland – all local elections
- Riverdale Park, Maryland – all local elections
- Takoma Park, Maryland – all local elections⁴

In Canada, similar attempts have been made by governments, to reintroduce the concept of reducing the voting age from 18 to 16. Private Members Bills had been introduced in the House of Commons both in 2005 and 2021 that sought to reduce the voting age. The most recent iteration, Bill C-210, a private members bill, was introduced in the House of Commons on December 21, 2022. The bill was defeated at second reading in the House of Commons on September 28, 2022.

If Regional Council were to consider a reduction in the age requirements to vote in municipal elections amendments to the *Municipal Elections Act* would be required. A letter to the Province of Nova Scotia requesting that this be considered could be directed. The HRM’s Youth Advisory Committee provides an avenue for public engagement on this matter should Regional Council wish to gain additional public feedback prior to a submission to the Province on reducing the voting age from 18 to 16 for municipal elections

Ranked Ballots or Run Off System

Ranked Ballots or Run-off voting is a system of voting where a voter is allowed to select more than one candidate and give their order of preference for each candidate⁵. In a ranked ballot or run off system, voters

² Elections Canada: Youth and the Right to Vote in Canada. <https://electionsanddemocracy.ca/voting-rights-through-time-0/case-study-3-youth-and-vote>

³ Elections Canada: Youth and the Right to Vote in Canada. <https://electionsanddemocracy.ca/voting-rights-through-time-0/case-study-3-youth-and-vote>

⁴ National Youth Rights Association: <https://www.youthrights.org/issues/voting-age/voting-age-status-report/>

⁵ Ranked Ballot Initiative of Toronto website: https://www.rabit.ca/what_are_ranked_ballots

can rank the candidates running in their district by first choice, second choice, etc. Some systems allow voters to choose just a few candidates (for example three or five), while others allow voters to rank all of the candidates.

Proponents of a ranked ballot or run off voting system would suggest that its utilization leads to a better and more representative election as a ranked ballots provide more choice for voters, eliminate vote splitting, and allow voters more influence on who gets elected even if their first choice is not the winner⁶.

Examples of other jurisdictions that utilize a ranked ballot or run off system include the City of New York which conducted its 2021 municipal election using a ranked ballot system. All mayoral elections in the United Kingdom make use of a ranked ballot systems and there are multiple jurisdictions in the United States that use a ranked ballot system for local and school board elections. In Canada, the City of London, Ontario conducted its 2018 municipal election using a ranked ballot system until a legislative change was introduced by the Province of Ontario in 2020 which restricted the use of ranked ballots in municipal elections in favour of a first past the post system.

Under the MEA, the ballots are not ranked. The voter may only place a mark beside the candidate they are voting for the race for Mayor or Councillor. If Halifax Regional Council were to consider moving to a ranked ballot or run off voting system for the Halifax Regional Municipality, amendments would be necessary to the MEA. A letter to the Province of Nova Scotia requesting that this be considered could be directed. Staff would further recommend that a public engagement campaign be considered prior to making a formal request to the province for a legislative change to obtain public feedback on moving to a ranked ballot system.

Adding Permanent Residents to the list of electors to vote in municipal elections.

A permanent resident is a person who has acquired and not lost permanent resident status pursuant to the *Immigration and Refugee Protection Act*. Permanent residents have gone through an application process and met a residency requirement. They are citizens of other countries. Permanent residents in Canada must wait about three years to start their citizenship application. In total, the process takes at least four to five years. Halifax Regional Council has provided formal direction in the past on the matter of adding permanent residents on the list of electors and allowing permanent residents to vote in municipal elections. A formal request for legislative amendments to the *Municipal Elections Act* was approved by motion of Council on December 2, 2014. The report from Executive Standing Committee dated November 24, 2014 considered by Regional Council on December 2, 2014 respecting Municipal Voting Rights for Permanent Residents can be viewed [here](#).

In 2014, staff provided Council with two options to enable permanent residents the ability to vote in municipal elections:

- 1) Submit a legislative amendment request to the Province of Nova Scotia to amend the Municipal Elections Act to extend voting rights to permanent residents in the province. This approach was deemed the most favorable as it would ensure common voting rights and consistency across the province; or
- 2) Request an amendment to the Halifax Regional Municipality Charter to enable the extension of voting rights to permanent residents who are resident of the Halifax Regional Municipality. This was not the recommended approach.

Council was advised in 2019: The Province has indicated it viewed the ability to vote as inseparable from the ability to nominate candidates and run-in elections. The question of permanent resident voting was considered, at various stages, of the administrative review of the elections process which took place from February to May 2019.

⁶ Ranked Ballot Initiative of Toronto website: https://www.rabit.ca/what_are_ranked_ballots

Although there were several discussions, the Municipal Elections Review Advisory Committee did not recommend amendments to the Municipal Elections Act at this time to allow permanent residents to vote, nominate, and run. The Committee pointed out that it would require significant revisions to other sections of the Municipal Elections Act, including changes to the voter identification requirements and election processes. As the committee was comprised of administrators, most proposed amendments were administrative in nature. The Committee's recommendations are with the Minister for review.

The Halifax Regional Municipality is not the only jurisdiction that has expressed interest in extending voting rights to permanent residents. Toronto, Vancouver, St. John, and Montreal have all made requests to extend voting rights to permanent residents but have not been successful in gaining the required legislative authority from provincial and federal governments to do so⁷. The province of New Brunswick is considering legislation to allow permanent residents to vote in local elections. To date there have been no formal objections to the bill which was introduced in the New Brunswick Legislative Assembly in 2020. It is anticipated the government of New Brunswick could approve legislation in 2024 to allow permanent residents to vote in municipal elections in 2026⁸

The qualifications to vote in a municipal election in the Province of Nova Scotia is laid out in section 14 of the *Municipal Election Act*:

Qualifications of elector

14. Subject to the other provisions of this Act, every person who
- (a) is of the full age of eighteen years on the first advance polling day;
 - (b) is a Canadian citizen on the first advance polling day;
 - (c) has been ordinarily resident in the Province for a period of six months immediately preceding the first advance polling day; and
 - (d) is ordinarily resident in the municipality or in an area annexed to the municipality and has been so since immediately before the first advance polling day, is entitled to be registered on the list of electors and to vote.

According to 2021 Census data, there are currently 39,625 non-citizens that are resident in the Halifax Regional Municipality⁹. The number of non-citizens residing in the municipality has more than doubled from 14,162. since the last legislative amendment request was made by the municipality in 2014.

Staff's opinion on the matter of extending voting rights to permanent residents remains unchanged from the recommendation that was provided in 2014. If Council chooses to make a subsequent legislative amendment request to the province of Nova Scotia respecting extending voting rights to permanent residents, that amendments to the MEA should be considered. This would enable all municipalities in Nova Scotia to allow permanent residents to vote providing consistent voting rights for permanent resident across the province. As noted in the 2014 staff report, it is important that the addition of permanent residents as qualified voters be practically applied to administering a municipal election in Nova Scotia. Furthermore, as in 2014, there are implications that must be considered respecting identification requirements for permanent residents to cast their vote.

Extending Voting and Candidacy Rights to landed immigrants/new Canadians.

¹ Myrna El Fakhry Tuttle, Should Non-Canadian Citizens be allowed to vote? Law Now 46(1), October 22, 2021 - <https://www.lawnow.org/should-non-citizen-residents-be-allowed-to-vote-in-canada/>

⁸ CBC New Brunswick: Municipal voting rights for permanent residents likely coming in 2026, May 27, 2022 <https://www.cbc.ca/news/canada/new-brunswick/nb-permanent-residents-non-citizen-voting-rights-1.6468599>

⁹ Statistics Canada Census Data 2021 - <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/details/page.cfm?Lang=E&GENDERlist=1,2,3&STATISTIClist=1&HEADERlist=0&DGUIDlist=2021A00051209034&SearchText=halifax>

The process for extending voting and candidacy rights to landed immigrants and permanent residents is conceptually like that of extending voting rights to permanent residents. This would include extending voting and candidacy rights to individuals who are living in the HRM from other countries on temporary visas, international students, and refugee claimants. Currently there are no jurisdictions within Canada that grant voting rights to non-citizens, outside of legislation that contemplates extending voting rights to permanent residents. Staff recommend monitoring the issue of extending voting and candidacy rights to landed immigrant populations, including international students and refugees, and returning to Executive Standing Committee with further information.

FINANCIAL IMPLICATIONS

There are no financial implications identified.

COMMUNITY ENGAGEMENT

There was no public engagement for this report. The 2022 District Boundary Review project was a legislatively required action that involved extensive community engagement over the course of the project. Public engagement activities for the 2022 District Boundary Review project ran from April to December 2022.

ALTERNATIVES

Executive Standing Committee could choose to amend the motion and forward a recommendation to Halifax Regional Council to write the province of Nova Scotia seeking legislative amendments to enable any of the electoral reforms listed in this report.

ATTACHMENTS

None

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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