



**City of Kingston
Report to Council
Report Number 16-366**

To: Mayor and Members of Council
From: Denis Leger, Commissioner, Corporate & Emergency Services
Resource Staff: John Bolognone, City Clerk
George Wallace, Senior Special Projects Manager
Date of Meeting: November 15, 2016
Subject: Amendments to the Municipal Elections Act, 1996 –
Supplementary Report – Regulation, Ranked Ballot Elections

Executive Summary:

On July 12, 2016 Council received [Information Report 16-244](#) which outlined recent amendments to the *Municipal Elections Act*. The most significant of the amendments was the introduction of ranked balloting for the offices of Mayor and Councillor beginning with the 2018 municipal election. Ranked balloting is optional for municipalities and is not permitted for School Board Trustees. When Council received [Report 16-244](#), two proposed Regulations with respect to ranked ballot elections were under review and staff advised they would report back to Council and seek direction once the Regulations had been approved.

Ontario Regulation 310/16, Ranked Ballot Elections, was approved on September 16, 2016. The Regulation (Exhibit A attached hereto) consolidated the two proposed Regulations that were under review and establishes standards and procedures for ranked ballot elections. Prior to passing a By-law to authorize a ranked ballot election, the Regulation prescribes certain matters that must be considered by Council. These matters include the cost of the election, the availability of technology and impacts on election administration and certain information that must be made available to the public including how a ranked ballot election would be conducted, estimated cost of the election, and the voting equipment and alternative voting methods being considered. In addition, there must be at least one (1) Open House and one (1) Public Meeting to consider the prescribed information and the proposed By-law to authorize the use of ranked balloting.

The deadline to pass a Ranked Ballot By-law, as well as any By-laws with respect to alternative voting methods and voting equipment, is May 1, 2017. In order to meet the prescribed notice requirements for the Open House and Public Meeting (minimum thirty (30) days notice for

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each), the prescribed information would need to be available no later than the end of February, 2017 for Council's consideration and presentation at the Open House. This is a very compressed timeline in which to conduct meaningful public consultation and assemble the prescribed information with sufficient detail to enable Council to fully assess the costs of a ranked ballot election, the availability and reliability of voting equipment, any alternative voting methods, and the impacts of ranked balloting on election administration.

A ranked ballot election represents a significant change for candidates, election administrators and the electorate. It is a fundamental departure from the current system and may be confusing to experienced and new voters alike. It is very important that the electorate and Council have as much information as possible prior to passing the By-law and to have every confidence that a ranked ballot election will be fair, accessible, efficient and successful, because once the By-law is passed ranked balloting must be used for the 2018 municipal election.

It is the recommendation of staff that the existing First Past the Post electoral system be retained for the 2018 municipal election and that staff report to Council in 2019 on the experiences of Ontario jurisdictions that opted for ranked balloting in 2018. This recommendation is based on the following reasons which are outlined in more detail in this report:

- 1) Timing – approval of the Regulation on September 16, 2016 makes a decision on implementing ranked balloting very difficult given the tight timelines for such things as meaningful public consultation, compiling prescribed information and equipment testing. All of this would need to be finalized no later than the end of February, 2017;
- 2) Financial Considerations – a substantial investment (staff, technology and finances) will be required in terms of overall election administration, new voting technology, technology upgrades, ballot design and testing, and staff time and resources to engage the electorate and explain how the ranked ballot election process will work, both prior to and during the election campaign;
- 3) Public Education - a ranked ballot election represents a significant change for candidates, election administrators and the electorate and is a fundamental departure from the current electoral system. As such, ranked balloting may be confusing to experienced and new voters alike. A comprehensive public education and engagement program will be required to prevent confusion and potential negative impacts to voter turnout;
- 4) Voting Technology and Testing – although it appears possible to conduct a ranked ballot election using similar equipment to what was used in 2014, at this point it is unknown and untested as to whether or not the equipment and related software can meet all of the new legislated requirements for ranked balloting. There is also concern with the availability and capacity of vendor staff to support ranked ballot elections; and
- 5) Lack of Current Use – since no Canadian jurisdiction uses ranked balloting, there is no opportunity to learn from past experience in terms of mitigating administrative or financial risks associated with the introduction of this totally new and untested voting methodology and ensuring compliance with the principles of the *Municipal Elections Act*. Information from an April, 2016 AMCTO survey of municipal clerks, meetings attended by staff and

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communications with municipal clerks across Ontario, indicates that very few municipal clerks are likely to recommend using ranked balloting in the 2018 municipal election. Although the majority of Ontario Clerks may not be recommending ranked balloting, it is recognized that final decisions in that regard rest with the respective Councils.

The municipal election is an important component of the City's democratic process. A fundamental change to the existing electoral process should only be undertaken following a comprehensive program of meaningful public education/consultation and in-depth analysis and testing of the proposed technologies to ensure a secure, accessible and efficient election.

It should be also noted that in keeping with the City's commitment to continuous improvement, a number of enhancements are under consideration as we undertake planning for the 2018 Municipal Election. These potential improvements are referenced further in the Options / Discussion section of the report.

Recommendation:

That Council maintain the existing First Past the Post (FPTP) electoral model for the 2018 municipal election; and

That Council direct the City Clerk to monitor the use of ranked ballot elections throughout Ontario for the 2018 municipal election and report back to Council in 2019 with a report that outlines the experiences of other jurisdictions that used ranked balloting in their 2018 municipal election; and

That the City Clerk be directed to continue to explore opportunities, other than ranked balloting, which may be implemented to provide broader access and participation in the 2018 Municipal Election as earlier outlined in [Report AP-15-009](#) and report back to Council on the 2018 Municipal Election Plan.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Denis Leger, Commissioner,
Corporate & Emergency
Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Community Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desiree Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:**Background:**

On July 12, 2016 Council received [Information Report 16-244](#) which provided a summary of amendments to the *Municipal Elections Act*. Bill 181, “An Act to amend the Municipal Elections Act, 1996 and to make complementary amendments to other Acts” (also known as the *Municipal Elections Modernization Act, 2016*) which received Royal Assent on June 9, 2016. The amendments are now in force with the exception of provisions related to registered third parties which do not come into force until April 1, 2018.

The most significant amendment to the Act was the introduction of new provisions giving municipalities the option to use ranked balloting beginning with the 2018 municipal election. When [Report 16-244](#) was presented to Council, two proposed Regulations with respect to ranked ballot elections were under review. Staff advised they would continue to monitor the proposed Regulations and then report back to Council and seek direction once the Regulations were approved. Regulation 310/16, Ranked Ballot Elections, which consolidates the two proposed Regulations that were under review, was approved on September 16, 2016.

Staff attended an AMCTO Zone 6 Election Information Session on September 28, 2016. Four (4) vendors of electronic voting systems made presentations with respect to their product lines, some of which have been used in ranked ballot elections outside of Canada.

A. Ranked Balloting:

Ranked balloting is not a completely new concept to Ontario as some political parties use ranked ballots to select their party leader and some municipalities use ranked ballots to determine membership on committees or boards. Ranked balloting has been used in a limited number of American jurisdictions and is sometimes used in Europe and the United Kingdom. However, no Canadian jurisdiction currently uses ranked ballot voting for its municipal elections and it has not been used in any provincial or federal elections in Canada. Therefore, the need for public education on the system prior to any implementation would be a major consideration. A ranked ballot election represents a significant change for candidates, election administrators and the electorate.

In terms of a brief review, ranked ballot voting is optional for municipalities to elect the Mayor and Councillors only. Electors would still use the current First Past the Post (FPTP) voting method for School Board Trustees. The main reason that ranked balloting is not an option for School Board Trustees is that School Board Districts typically cross municipal boundaries, and in some cases may include only portions of adjacent municipalities. This means that Kingston would essentially run two types of elections on Voting Day if ranked balloting is used for the Mayor and Councillors and FPTP for the School Board Trustees.

In Kingston, single-member elections are used for the Mayor and Council positions, i.e. only one candidate will win. On the other hand, single-member ranked ballot elections use a system called Ranked Choice Voting whereby the winning candidate must receive 50% of the total

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votes plus one (a simple majority threshold). Electors rank the candidates in order of preference – first choice, second choice, third choice, etc. – instead of voting for just one candidate. First choice votes would be counted for all of the candidates. If a candidate receives at least 50% plus one votes, he or she is elected. If no candidate receives the required majority of the votes, the candidate with the lowest number of votes is eliminated and the ballots are recounted according to the next choice marked on each of the eliminated candidate's ballots. This process continues until one candidate has enough votes to be declared the winner.

In looking at the results for the 2014 municipal election, had that been a ranked ballot election, and assuming that everyone voted the same way respecting their first choice, eight (8) of the Districts would have been decided based on first count votes. The elected candidates in those eight (8) Districts received a low of 51.9% of the vote to a high of 87.3%. For the office of Mayor and the other four (4) District Councillors, multiple rounds of ballot counting would have been required as the winning candidates received a low of 33.7% of the vote to a high of 40.6%. Due to the uncertainty of the capability of the technology to process multiple rounds of balloting, the time to undertake this process is unknown at this time.

i) Regulation 310/16 - Ranked Ballot Elections:

On September 16, 2016 Regulation 310/16 (attached as Exhibit A) was approved. The key provisions that would be applicable to a ranked ballot election in the City of Kingston (single-tier municipality) include the following:

Authority to Conduct Ranked Ballot Elections (Sections 2 – 4):

- If a By-law is passed, ranked balloting must be used to elect all members of Council; and
- Electors are entitled to rank as many candidates for an office as the By-law specifies – if the By-law does not specify a maximum, the default number is three (3) - an elector does not have to rank the maximum number of preferences.

By-laws With Respect to Ranked Ballot Elections (Sections 5 – 8):

- Before passing a By-law, Council must consider the costs to the municipality of conducting the election, the availability of technology such as voting and vote-counting equipment, and the impact the proposed By-law would have on election administration;
- The By-law may specify the maximum number of rankings for each office on Council;
- The By-law may specify a different number of rankings for each office;
- The By-law applies to all regular elections and by-elections in the City; and
- If the By-law is passed before May 1, 2017, it becomes effective for the 2018 municipal election.

Information about Proposed By-law (Sections 9 – 11):

- Before passing a By-law, information must be made available to the public that describes: how the election will be conducted, including how votes would be distributed to

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candidates based on the rankings; the estimated cost of conducting the election; any voting and vote-counting equipment being considered; and any alternative voting method being considered;

- The required information must be made available free of charge to any member of the public upon request;
- Before passing the By-law, at least one (1) Open House and one Public Meeting must be held for the purpose of giving the public an opportunity to review and ask questions about the prescribed information and proposed By-law;
- At least thirty (30) days before the Open House and at least thirty (30) days before the Public Meeting are to be held, notice must be provided in a newspaper having general circulation in the municipality and to every person or organization that has, within two (2) years before the day of the Open House and Public Meeting, requested such notice;
- The prescribed information about the By-law must be available at the Open House and the Public Meeting;
- The Public Meeting must be held at least 15 days after the Open House;
- The Public Meeting notice must set out the intention of the City to pass the By-law;
- Council shall ensure that any person who attends the Public Meeting is given the opportunity to make representations with respect to the proposed By-law.

Conducting a Ranked Ballot Election (Sections 12 to 14):

- The Clerk is responsible for conducting a ranked ballot election.

Ballots and Ranking by Electors Sections 15 – 18):

In addition to the general rules for what can appear on a ballot, ranked ballots must include:

- The number of candidates to be elected for each office;
- Instructions to electors on how to mark the ballot, how to rank candidates in order of preference, and the maximum number of candidates that can be ranked for each office;
- If an elector gives the same candidate more than one ranking, only the highest will be considered; and
- If an elector skips a ranking, the next highest will be counted.

Counting the Votes – General (Sections 19 – 23):

- The threshold, or number of votes needed to elect a candidate, is a simple majority based on the total valid ballots cast, divided by 2, plus 1 (rejected ballots and exhausted ballots are removed from the count);
- Candidates may be eliminated either using single or batch elimination;

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- On or before December 31, 2017, the Clerk decides which elimination method is to be used and shall notify each candidate in writing when nominations are filed – the method must be the same for all offices and all rounds of counting;
- A ballot becomes exhausted at the end of a round of vote counting if: the elector has not ranked any of the continuing candidates in the next round; or, if it is not possible to determine the elector's highest ranking for a continuing candidate; or, the elector has ranked more candidates than the maximum permitted and the elector's highest ranked continuing candidate holds a lower ranking than the lowest permitted ranking.

Counting for Election of One Candidate to an Office (Sections 24 – 25)

- Section 24 sets out the procedures and sequence for counting votes;
- Section 25 sets out the procedures to deal with situations where candidates to be eliminated are tied.

Information about Election Results (Section 28):

- As soon as possible after voting day, the Clerk must report: the number of ballots cast; the number of ballots declined or rejected; the threshold for each office; the number of votes cast for each candidate in the 1st round of ballot counting; the results of each subsequent round of ballot counting including the number of votes received by each continuing candidate for the round and the number of exhausted ballots.

Variations to the Act (Sections 29 – 31 and Schedules 1 and 2):

Sections 29 – 31 and Schedules 1 and 2 set out certain variations to the *Municipal Elections Act* with respect to ranked ballot elections only (Schedule 1) and ranked ballot elections held concurrently with non-ranked ballot elections (Schedule 2).

ii) Ranked Balloting – Council Considerations

Before deciding to pass a Ranked Ballot By-law, Regulation 310/16 identifies the following considerations that must be addressed by Council:

- The costs to the municipality of conducting the election;
- The availability of technology such as voting and vote-counting equipment and software, for conducting the election; and
- The impact the proposed By-law would have on election administration.

Each of these considerations is discussed as follows.

iii) The Costs of Conducting the Election:

As indicated in [Information Report 16-244](#), the actual cost for the 2014 municipal election was \$552,105. At this point it would be safe to say that should Council decide to utilize ranked balloting for the 2018 municipal election, significant additional investment will be required in terms of overall election operations, equipment, staffing, support systems and administration.

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Those significant investments, in the form of human, technological and financial resources, could conceivably be in the magnitude of an additional \$200,000 to \$250,000 or more, resulting in a total ranked ballot election cost of approximately \$800,000 or more. Required investments would include:

- Public Education and Engagement – Ranked balloting is a new concept not previously used in any Canadian jurisdiction. It is a fundamental departure from the experience of the average elector and may be confusing to experienced and new electors alike. The City will need to invest significant resources to engage the electorate and explain how a ranked ballot election works and how electors are to fill out their ballot. This would include the need to explain the differences between ranked balloting and First Past the Post (FPTP) and that both forms of voting may appear on the same ballot, i.e. ranked balloting for Mayor and Councillors and FPTP for School Board Trustees. Ongoing electorate education and communication campaigns and promotional materials will be costly and will be required prior to passing a By-law to authorize a ranked ballot election and throughout the election campaign, up to and including Election Day. Mandatory public consultation must include at least one Open House and one Public Meeting prior to passing the Ranked Ballot By-law. Additional staff resources will be necessary at each polling station on both the advanced voting days and on Election Day to ensure that electors fully understand how to fill out their ballot before voting.
- Ballot Design – Ballots will need to be re-designed to accommodate the ability of all electors to rank their choices for the offices of Mayor and Councillor and to vote for School Board Trustees based on the current FPTP system. Larger ballots may be needed to accommodate the listing of the candidates for each office, the maximum number of preferences for each office and the required instructions to electors on how to rank their preferences. Also, more ballots will be required due to the increased possibility of spoiled ballots. Based on preliminary discussions with the vendors of electronic voting equipment, a single ballot could be used for both Council and School Board Trustees and both sides of the ballot could be used if there is an issue with providing all the required information on one side of the ballot only.
- Voting Technology – Based on some preliminary discussions with vendors, it was confirmed that ranked balloting versions of their products and systems (including internet voting) will cost more (perhaps an additional 25% to 35%). The need and associated cost for vendor staff support on Election Day will also need to be considered. Another cost consideration will be the need for additional voting equipment to handle potentially longer lines at the polling stations given the experiences with the 2014 election and the additional time that will be required for electors to complete their ranked ballots. There are also various options available in terms of voting and vote-tabulating equipment and it would be prudent to undertake a cost benefit analysis of the various options.
- Logic Testing – Once the new ballots have been designed and the preferred electronic vote tabulation equipment identified, the proposed ranked balloting system will need to be fully tested and retested to ensure reliability and accuracy with the first ballot count and any subsequent re-distribution of votes in any second or third ballot counts and/or any re-

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counts. The equipment will also need to be fully tested to ensure that all members of the electorate, including those with disabilities, are able to cast their ballots.

- IT Support – Upgrades to the City's IT infrastructure will also be required to accommodate the updated voting technology and the reporting of election results in a timely fashion.
- Staff Training – Additional training will be required to ensure that all staff in the election office and working at the advance polls and on Election Day fully understand the ranked ballot vote casting and counting process so that they can assist electors as needed. This will likely need to include development of a contingency plan for manual counting / redistribution / recounting should there be a problem with the electronic vote tabulation system.
- Election Support Staff – One or two additional staff may be required at each poll on the Advanced Voting Day(s) and on Election Day to assist electors and to ensure that wait times are not increased. This would be in addition to potential election staff increases identified as part of the 2014 post-election analysis to address the issue of long lines at the polling stations.

iv) The Availability of Technology:

Vendors that provide electronic voting and vote-counting equipment are aware of the changes to the *Municipal Elections Act* and are developing software that the vendors maintain should be capable of processing a ranked ballot election. Set-up, testing and use of voting and vote-counting equipment will be significantly more complex with a ranked ballot election. Canadian equipment vendors have not conducted this type of election before or have limited experience with ranked ballots, although some have provided equipment to American jurisdictions. Based on some preliminary discussions with vendors, the physical characteristics of voting and vote-counting equipment would essentially remain the same. The majority of required upgrades would be to internal components of the equipment (software and programming). While the voting and vote-counting equipment may be available in sufficient numbers there is a concern about the availability and capacity of vendor staff to support ranked ballot elections.

- Voting Technology – The technology will need to accommodate the new ranked ballot design with the capability to count and recount as necessary the ranked ballots for Mayor and Councillor and the standard ballots for School Board Trustees. The technology will also need to accommodate the prescribed reporting requirements (number of ballots cast; number of ballots declined or rejected; threshold for each office; number of votes each candidate received in 1st round of vote counting; results of each subsequent round of vote counting; and, the number of exhausted ballots). Unique programming will be required to accommodate the prescribed vote counting procedures (e.g. if an elector does not mark a first choice or skips a ranking).
- Logic Testing – Once the new ballots have been designed and the preferred voting and vote tabulation equipment has been identified, the new ranked balloting system will need to be fully tested to ensure reliability and accuracy with the first ballot count and any re-

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distribution of votes in any subsequent ballot counts and re-counts. It will also be necessary to ensure the security and integrity of the systems.

- Internet Voting – Significant testing of technology involving ranked ballots will also be needed should the City opt for ranked balloting and continue with internet and/or telephone voting.

v) Impacts on Election Administration:

From an administrative perspective, there are a range of additional factors that will make a ranked ballot election more complex and more costly. As discussed in more detail in the foregoing sections, changing from the current election model (First Past the Post) to ranked balloting will necessitate significant investments in additional resources (financial, staffing and technology). Given that ranked balloting would be for the Mayor and Councillors only, and not School Board Trustees, the municipality essentially will have to run two types of election. Other impacts on election administration include the following:

In terms of accessibility, in 2014 the City utilized accessibility devices at all voting locations that included a handheld touch pad, “yes/no” paddles and a sip and puff machine. These devices provided the elector with the opportunity to listen to an audio ballot with the candidate options read out over headphones. Even with the current First Past the Post ballot, a significant amount of time was required to read out the ballot. An area of potential concern for accessibility is that considerably more time will be required to read out the ranked ballot given the option for the elector to rank up to three candidates from the list for each office (Mayor and Councillor), particularly if there are a large number of candidates (last election there were six (6) candidates for Mayor, one (1) District had five (5) candidates for Councillor and seven (7) Districts had four (4) candidates for Councillor), as well as the candidates for School Board Trustee.

In order to be transparent with the election results, more in-depth information is required with a ranked ballot election. In addition to the candidates elected and the number of ballots cast (currently reported), the Clerk will also have to report on the number of declined or rejected ballots, the threshold for each office, the number of votes each candidate received in each round of vote counting and the number of exhausted ballots. The vote-counting machines will need to have the capability to provide these prescribed election results.

The Regulation also prescribes the process to be followed in the event that there is a tie between two or more continuing candidates with the fewest number of votes as follows:

1. If the tie is in the first round of vote counting, the tie is resolved by lot and the candidate chosen by lot is deemed to have the fewest votes;
2. If the tie is in the second or a subsequent round of counting:
 - i. The candidate with the fewest votes in the preceding round is deemed to have the fewest votes in the current round;

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- ii. If the candidates who are tied in the current round were tied in the preceding round, the candidate with the fewest votes in the round before the preceding round is deemed to have the fewest votes in the current round; and
- iii. If the candidates who are tied in the current round were tied in all preceding rounds, the tie is resolved by lot and the candidate chosen by lot is deemed to have the fewest votes in the current round.

The Regulation does not specify who oversees the conduct of the “lot”, whether there needs to be a ballot reconciliation before conducting the “lot”, who must be present to witness the “lot”, etc.

Perhaps the most significant impact on election administration will be meeting expectations and delivering timely reporting of election results. The *Municipal Elections Act* requires the posting of election results “as soon as possible after voting day”. Even with the current voting system, concerns were expressed with respect to the reporting of the 2014 election results. There were a number of factors that contributed to the delays in 2014 (See [Report AP-15-009](#)). The complexities of a ranked ballot process could add significantly to the delay between the close of voting and the release of preliminary or “unofficial” results by the Clerk’s Office. Contributing factors to the added delay would include:

- The number of electors still in the polls at closing;
- The number of multiple vote counts required to declare winners;
- Whether there is a need to reconcile ballot counts and verify results from one round of ballot counting before moving on to a subsequent round of ballot counting (not addressed in the Regulation);
- The need to draw lots in the event of a tie as discussed above.

Delays in the posting of the official election results will be necessary to ensure the accuracy of the results and could vary significantly depending on the number of rounds of ballot counting required, the vote counting systems implemented, and the performance of the technology. For example, Cambridge, Massachusetts (2013 population of 107,289) utilizes multi-member ranked voting. Recognizing that multi-member ranked balloting is even more complex than the single ranked balloting that would be used here, Cambridge produces preliminary results the night of the election, unofficial results the next day and then takes ten (10) days for the verification and posting of the official election results. Similarly, the City of Minneapolis, Minnesota (2013 population of 400,070) used ranked balloting for the first time in 2009. Following the first round of counting ballots were hand counted starting on Wednesday, November 4, 2009 with the count completed on Friday, November 13, 2009 (i.e. 9 days later).

vi) Analysis:

As outlined in [Information Report 16-244](#), the *Municipal Elections Modernization Act, 2016* (Bill 181) introduced a number a substantial amendments to the *Municipal Elections Act* and the rules which election administrators, candidates and electors must follow beginning with the 2018 municipal election. Those amendments relate to such things as a shortened election campaign

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period, campaign financing rules, campaign contributions and spending, preparation of an accessibility plan and new obligations for the Clerk to review candidate financial statements. However, the most significant of the amendments is the introduction of the option for municipalities to use ranked ballot voting for the Mayor and Councillor positions. Ranked balloting represents a significant change from the current electoral system and will necessitate significant additional investment by the City's taxpayers in terms of overall election operations, equipment, staffing, support systems and administration that could conceivably be in the magnitude of \$200,000 to \$250,000 or more.

One of Council's strategic priorities is to "Foster open government": "Kingston is committed to being transparent and accountable, and empowering the community to participate in meaningful and innovative solutions. Citizens have the right to access information to participate in and oversee civic affairs". As noted, ranked balloting represents a fundamental departure from the current First Past the Post system for municipal elections and may be confusing to the electorate. If not fully understood and accepted, ranked balloting could potentially result in negative impacts on voter turnout. In accordance with the above noted strategic priority, a comprehensive program of public consultation and engagement would need to be undertaken before implementing such a significant change to the current electoral system. The results of this public consultation should be one of several factors taken into consideration before a decision is made to implement ranked balloting in Kingston.

As discussed in this report, prior to passing a By-law to authorize the use of ranked balloting, Regulation 310/16 prescribes that Council must consider the cost of the election, the availability of technology and the impacts on election administration and must provide information to the public with respect to how a ranked ballot election would be conducted, an estimated cost of the election, and the voting equipment and alternative voting methods being considered. While the 2018 municipal election may still seem far away and the deadline to pass a By-law to authorize ranked balloting for the 2018 election is May 1, 2017, the timeline to comply with the prescribed requirements of the Regulation with respect to the matters to be considered by Council and the information to be provided to the public is much shorter. Both the mandatory Open House(s) and Public Meeting require a minimum of thirty (30) days notice and the prescribed information must be available at both. In essence, this means that the prescribed information would need to be finalized no later than the end of February, 2017.

The municipal election is an important component of the City's democratic process. In addition to the mandated considerations for ranked ballot elections discussed herein, Council should also be certain that the election could be administered in accordance with the following principles of the *Municipal Elections Act*:

- The secrecy and confidentiality of the voting process is paramount;
- The election shall be fair and non-biased;
- The election shall be accessible to the voters;
- The integrity of the voting process shall be maintained throughout the election;
- There is to be certainty that the results of the election reflect the votes cast; and

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- Voters and candidates shall be treated fairly and consistently.

Staff respectfully suggests that such certainty can only be achieved if there is sufficient time to undertake a comprehensive program of meaningful public education/consultation and an in-depth analysis and testing of the available technology options for ranked balloting in order to provide assurances that appropriate safeguards will be in place to deliver a secure, accessible and efficient election.

Given the foregoing, it is the recommendation of staff that Council maintain the current First Past the Post electoral model for the 2018 municipal election for the following reasons:

- 1) Timing – With the approval of Regulation 310/16 on September 16, 2016 there is a very compressed timeline for such things as undertaking meaningful public consultation and compiling the prescribed information respecting election costs, voting technology and alternative voting methods. All of this needs to be finalized no later than the end of February, 2017 in order to comply with the notice requirements for the mandatory Open House(s) and Public Meeting prior to passing a By-law by May 1, 2017. Given this compressed timeline, the complexities of ranked balloting, and the untested state of voting technology in Ontario for ranked balloting, staff recommends delaying consideration of ranked balloting until after the 2018 municipal election.
- 2) Financial Considerations – There will be significant additional costs associated with a ranked ballot election as outlined in previous sections of this report. Substantial investment (staff, technology and finances) will be required in terms of: overall election administration; new voting technology; technology infrastructure upgrades; ballot design and testing; staffing and staff training; and, public education and engagement prior to and during the election campaign. At this time, these additional costs are estimated in the range of \$250,000 to \$300,000, or more. Staff is of the opinion that the financial risks associated with a ranked ballot election would be better managed when lessons can be learned from the experiences of other jurisdictions that might opt for ranked balloting in the 2018 municipal election.
- 3) Public Education – Ranked balloting represents a significant change for candidates, election administrators and the electorate and is a fundamental departure from the current electoral system. Since no municipality in Ontario currently conducts ranked ballot elections, there is a general lack of public knowledge about and experience with this electoral system and it has the potential to be confusing for experienced and new voters alike. A significant amount of time, effort and funding will need to be allocated towards a comprehensive public education and engagement program in order to prevent confusion and garner support in order to mitigate potential negative impacts to voter turnout. Staff has concerns that the compressed timeline may preclude undertaking the thorough public consultation that is warranted before implementing such a significant change to the current electoral system. Staff suggests that it would be very beneficial to monitor the experiences of other municipalities that opt for ranked balloting for the first time in 2018 and learn from their public education initiatives.
- 4) Voting Technology and Testing – Based on some very preliminary discussions with vendors of electronic voting equipment, it appears possible to conduct a ranked ballot election using similar vote tabulators to what was used in 2014, with necessary internal modifications to

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programming and software. However, at this point it is unknown whether the “new” electronic tabulators can meet all of the requirements of the legislation. There are unique requirements to accommodate both ranked balloting for Mayor and Councillors and First Past the Post balloting for School Board Trustees and the reporting of election results. The tabulators must be able to read, tabulate and calculate multiple rounds of ballot counting while ensuring that votes are redistributed appropriately. Given that the Regulation was just approved in September, the required software may still be in the early stages of development and testing. The complexities of ranked balloting will require that thorough logic and accuracy testing be undertaken to ensure that votes will be counted accurately and consistently in accordance with the new legislative procedures before a decision is made on the use of ranked balloting. Should there be a large uptake on the use of ranked balloting in 2018, there is also concern with the availability and capacity of vendor staff to support municipalities on Election Day.

- 5) Lack of Current Use – As with any new electoral process or program, there needs to be careful consideration of the options, benefits and risks to ensure that adoption is in the public interest, is feasible and that any associated risks can be mitigated. For example, Kingston had the opportunity to learn about and plan for the introduction of Internet and Telephone Voting for the 2014 election (Council Reports 12-260 and 13-164) based on the previous experiences of other Ontario jurisdictions. However, in the case of ranked ballot elections, there are no provinces or municipalities across Canada that currently use this system and there is only limited application in the United States. As such, relevant experience is very limited in terms of identifying and mitigating any administrative or financial risks associated with the introduction of this totally new and untested voting methodology in Ontario. This may be one of the reasons that only 4% of the 165 municipal clerks responding to an April 2016 AMCTO Survey indicated that they were likely to recommend ranked balloting for the 2018 election. At a recent Election Information Session in September, 2016, none of the 34 Eastern Ontario municipalities represented (including Ottawa, Brockville, Cornwall and Renfrew) indicated the intent to recommend ranked balloting in 2018. In addition, responses from other Ontario municipal Clerks prior to the writing of this report indicated that they also would not be recommending the use of ranked balloting for 2018.

B. Potential enhancements under consideration in planning the 2018 Municipal Election

The following is an excerpt from the March 12, 2015 [Report AP-15-009](#) which identifies themes and elements that will require added consideration and review in developing the 2018 Municipal Election Plan. The 2017 budget submission and 2018 budget forecasts currently anticipates a First Past The Post election model and incorporates additional funding to adequately deal with some of the considerations listed below. Staff will report back to Council on the 2018 Municipal Election Plan.

Voters' List

- Work with local landlords to inform them of the revision process and how they can help the municipality and MPAC update the Voters' List.

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- Continue to work with post-secondary institutions and student groups to promote revisions, and to work to get more students on the voters' list.
- Work with MPAC and through the Association of Municipal Clerks and Treasurers of Ontario to work with the provincial government to make reforms to regulations regarding the voters' list.

Recruitment

- Review testing requirements for positions.
- Review staffing for Election Office to ensure the project has the required resources.
- Incorporate a computer proficiency test into recruitment.
- Reevaluate the staffing compliment for voting location, for example more DROs, more Revision Clerks.
- Engage high school students to work at the voting locations through the school, engagement in grade 11, go to school to facilitate training or offer after hours training sessions for students. (Work with the school board, or local Principals.)

Training

- Train in smaller groups.
- Include more hands-on training, with scenarios, a mock voting location, and setting up of equipment.
- Provide binders to Site Supervisors with all applicable forms and manuals.
- Provide additional training sessions (optional) for those who wish to have refresher training with electronic voter list system.
- Provide more training on accessibility equipment to at least two election officials.
- Provide training to District Captains, this will occur in periodic meetings to update on the election process, and to provide information.
- Have staff conduct training sessions for voting location staff in September, in advance of any advance voting opportunities. This will allow for the Election Team to be at full complement during the advance voting period to be on hand to respond to the volume of enquiries.
- Provide city staff who is working at the voting locations with access to training sections on the Voter List System with training data to be able to become familiar with the system.

Candidates

- Investigate the feasibility of providing candidates portal access to the voter list management system.

Voting Locations

- Book voting locations at the beginning of the year. Use the summer to tour facilities and book additional facilities, cancel those facilities that are no longer required.
- Investigate whether the additional voting locations could be included.
- Investigate the use of additional centralized super polls to offset the pressure on local voting locations.

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- Investigate whether a vote anywhere system in the municipality or vote anywhere in the district voting could be implemented.
- Have an election official meet with the principals of the schools and administrators in September to review expectations for the day.
- Review staffing at voting locations.
- Re-evaluate voting locations based on feedback received.
- Consult with Kingston Transit to ensure that more voting locations are accessible by public transit and the feasibility of presenting the voter notification letter in order to secure free bus transportation to the voting location on voting day.

Voting day

- Have dedicated voting location staff serve as relief staff for the after work rush at voting locations.
- Recruit auxiliary voting location staff to be deployed for evening rush.
- Tweet, via Twitter, wait times at voting locations to provide the public with information about the voting location website.
- Create a forms system that is easier for voting location staff to use.
- Re-evaluate quantity of supplies provided to voting locations.

Election Reporting

- Site Supervisor should be able to leave as soon as the tabulator tape has been closed off and run, and ballot account statements have been completed.
- Have those Site Supervisors that have their election close out paperwork in order be able to submit their tabulator for processing in advance of getting their paperwork signed off.
- Have more staff on hand to review and sign off on ballot account statements.
- Investigate the feasibility of having results remotely transmitted to City Hall.
- Implement changes to support substantial increased website capacity to avoid timeout or delays on the City of Kingston website on election night.
- Create a communications plan to communicate any delays in reporting of results, plan would include all social media.

Existing Policy/By-Law:

The *Municipal Elections Act*, 1996, as amended.

Notice Provisions:

If City Council decides to implement a ranked ballot election, public consultation, including at least one mandatory Open House and Public Meeting, would be required in accordance with the following requirements of the *Municipal Elections Act*, 1996, as amended, and Regulation 310/16:

- Council must provide at least thirty (30) days notice of the Open House in a newspaper having general circulation in the municipality and to every person and organization that has, within two (2) years before the day of the Open House, requested such notice;

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- Council must provide at least thirty (30) days notice of the Public Meeting in a newspaper having general circulation in the municipality and to every person and organization that has, within two (2) years before the day of the Open House, requested such notice;
- The prescribed information required by the Regulation (how ranked ballot election is conducted, estimate of costs, and the voting equipment and alternative voting methods being considered) must be available at both the Open House and Public Meeting;
- Council shall ensure that the Public Meeting notice sets out the intention of the municipality to pass the By-law; and
- Council shall ensure that any person who attends the Public Meeting is given the opportunity to make representations in respect of the proposed By-law.

The public process must be finalized no later than the end of February, 2017 in order to comply with the notice requirements for the mandatory Open House(s) and Public Meeting prior to passing a By-law by May 1, 2017.

Accessibility Considerations:

This report may be available in different formats upon request.

Financial Considerations:

Should Council decide to utilize ranked balloting, an additional significant investment will be required in terms of overall election administration, new voting technology, ballot design and testing, and staff time and resources to support the election process and engage the electorate to explain how the ranked ballot process will work. The total cost for the 2014 municipal election was \$552,105. Should Council decide to implement ranked balloting, additional significant investments would be required in the form of human, technological and financial resources that could conceivably add \$200,000 to \$250,000 or more to the cost of the 2018 Municipal Election.

Currently, the upcoming 2017 budget submission and 2018 budget forecast do not incorporate the ranked balloting electoral option being adopted for 2018.

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Exhibits Attached:

Exhibit A – Ontario Regulation 310/16, Ranked Ballot Elections (*Municipal Elections Act*, 1996)

Français

Municipal Elections Act, 1996

ONTARIO REGULATION 310/16 RANKED BALLOT ELECTIONS

Consolidation Period: From September 16, 2016 to the [e-Laws currency date](#).

No amendments.

This is the English version of a bilingual regulation.

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INTERPRETATION

Interpretation

1. In this Regulation, a reference to a by-law with respect to ranked ballot elections means a by-law that may be passed by a municipality under section 41.2 of the Act.

AUTHORITY TO CONDUCT RANKED BALLOT ELECTIONS

Authority conferred, single-tier or lower-tier municipality

2. (1) Subject to subsection (2), ranked ballot elections for offices on the council of a single-tier or lower-tier municipality are hereby authorized to be conducted in accordance with the rules set out in subsection 41.1 (1) of the Act.

(2) Ranked ballot elections for offices on the council of a single-tier or lower-tier municipality are authorized only if they are to be conducted for all offices on the council.

Authority conferred, upper-tier municipality

3. (1) Subject to subsections (2) to (4), ranked ballot elections for offices on the council of an upper-tier municipality are hereby authorized to be conducted in accordance with the rules set out in subsection 41.1 (1) of the Act.

(2) Ranked ballot elections are not authorized for any office on the council of an upper-tier municipality unless they are authorized for all offices on the council of every lower-tier municipality within the upper-tier municipality.

(3) Ranked ballot elections are not authorized for any office on the council of an upper-tier municipality unless both of the following circumstances exist:

1. One or more members of the council of the upper-tier municipality are elected to the council by the electors of all or part of one or more lower-tier municipalities within the upper-tier municipality.
2. The members referred to in paragraph 1 who are elected to the council of the upper-tier municipality are not also elected to the council of a lower-tier municipality within the upper-tier municipality.

(4) Ranked ballot elections are authorized only for the offices of members described in paragraphs 1 and 2 of subsection (3) and they are authorized only if they are to be conducted for the offices of all of those members of the council of the upper-tier municipality.

Elector's right to vote

4. (1) An elector is entitled to rank as many candidates for an office as the by-law with respect to ranked ballot elections specifies or, if the by-law does not specify the number of rankings, three candidates.

(2) Paragraph 3 of subsection 51 (2) of the Act does not apply with respect to a ranked ballot election.

BY-LAWS WITH RESPECT TO RANKED BALLOT ELECTIONS

Matters to be considered by council

5. (1) Before passing a by-law with respect to ranked ballot elections, the council of a single-tier or lower-tier municipality shall consider the following matters:

1. The costs to the municipality of conducting the elections.
2. The availability of technology, such as voting equipment and vote-counting equipment and software, for conducting the elections.
3. The impact the proposed by-law would have on election administration.

(2) Before passing a by-law with respect to ranked ballot elections, the council of an upper-tier municipality shall consider the following matters:

1. The costs to the municipality of conducting the elections.
2. The technology, if any, being used by the lower-tier municipalities within the upper-tier municipality for conducting their ranked ballot elections.

Contents of by-law

6. (1) A by-law with respect to ranked ballot elections may specify the maximum number of rankings for each office on council.

(2) The by-law may specify a different number of rankings for each office.

(3) In this section, a reference to the number of rankings for an office is a reference to the number of candidates for the office in respect of whom an elector is permitted to indicate a preference when voting.

Application of by-law to elections

7. A by-law with respect to ranked ballot elections applies to all regular elections and by-elections of the municipality.

When by-law comes into force

8. (1) A by-law with respect to ranked ballot elections does not come into force until,
- (a) if it is passed after May 1, in the case of a single-tier or lower-tier municipality, or after July 1, in the case of an upper-tier municipality, in the year before the year of a regular election, the day a newly elected council is organized following the second regular election after the passing of the by-law; or
 - (b) in any other case, the day a newly elected council is organized following the first regular election after the passing of the by-law.
- (2) Despite subsection (1), the regular election that is held immediately before the coming into force of a by-law with respect to ranked ballot elections shall be conducted as if the by-law were already in force.

INFORMATION ABOUT PROPOSED BY-LAWS

Proposed by-law: information for the public

9. (1) Before passing a by-law with respect to ranked ballot elections, the council shall ensure that the following information is made available to the public with respect to the proposed by-law:
- 1. A detailed description of how the elections would be conducted, including a description of how votes would be distributed to candidates based on the rankings marked on ballots.
 - 2. An estimate of the costs of conducting the elections.
 - 3. For a proposed by-law of a single-tier or lower-tier municipality, a description of the voting equipment and vote-counting equipment, if any, that is being considered.
 - 4. For a proposed by-law of a single-tier or lower-tier municipality, a description of any alternative voting method being considered.
- (2) If the proposed by-law would repeal a by-law with respect to ranked ballot elections, paragraph 1 of subsection (1) requires only a detailed description of how the elections would be conducted.
- (3) The council shall ensure that the information required by this section is made available free of charge to any member of the public upon request.
- (4) The council of an upper-tier municipality shall ensure that the information required by this section is made available to the public at least 15 days before the public meeting required by section 11 is held.

Proposed by-law: open house (single-tier or lower-tier municipality)

10. (1) Before passing a by-law with respect to ranked ballot elections, the council of a single-tier or lower-tier municipality shall ensure that at least one open house is held in accordance with this section for the purpose of giving the public an opportunity to review and ask questions about the information required by section 9.
- (2) The open house shall be held at least 15 days before the public meeting required by section 11 is held.
 - (3) At least 30 days before the open house is to be held, the council shall publish notice of the open house in a newspaper having general circulation in the municipality.
 - (4) The council shall give at least 30 days' notice of the open house to every person and organization that has, within two years before the day of the open house, requested that the municipality provide the person or organization with such notice and has provided an address for the notice.
 - (5) The council shall ensure that the information required by section 9 is available at the open house.

Proposed by-law: public meeting

11. (1) Before passing a by-law with respect to ranked ballot elections, the council shall ensure that a public meeting is held in accordance with this section in respect of the proposed by-law.
- (2) At least 30 days before the public meeting is to be held, the council shall publish notice of the public meeting as follows:
 - 1. For a proposed by-law of a single-tier or lower-tier municipality, in a newspaper having general circulation in the municipality.
 - 2. For a proposed by-law of an upper-tier municipality, in one or more newspapers that, together, have general circulation in each lower-tier municipality within the upper-tier municipality.
 - (3) The council shall give at least 30 days notice of the public meeting to every person and organization that has, within two years before the day of the public meeting, requested that the municipality provide the person or organization with such notice and has provided an address for the notice.
 - (4) The council shall ensure that the notices required by subsections (2) and (3) set out the intention of the municipality to pass the by-law.

(5) The council shall ensure that any person who attends the public meeting is given the opportunity to make representations in respect of the proposed by-law.

(6) The council shall ensure that the information required by section 9 is available at the public meeting.

CONDUCTING A RANKED BALLOT ELECTION

Responsibility of clerks re single-tier and lower-tier municipalities

12. The clerk of a single-tier or lower-tier municipality is responsible for conducting a ranked ballot election for offices on the council of the municipality.

Responsibilities of clerks re upper-tier municipalities

13. (1) The clerk of an upper-tier municipality is responsible for conducting a ranked ballot election for offices on the council of the municipality, except as otherwise specified in this Regulation.

(2) When an upper-tier municipality passes a by-law with respect to ranked ballot elections, the clerk of the municipality shall give a copy of the by-law to the clerks of every lower-tier municipality within the upper-tier municipality.

(3) As soon as possible after the upper-tier municipality passes a by-law with respect to ranked ballot elections, the clerk of each lower-tier municipality within the upper-tier municipality shall tell the clerk of the upper-tier municipality how many eligible electors were on the voters' list for the lower-tier municipality, as the voters' list existed at the close of voting on voting day in the previous regular election.

Responsibility for counting votes re upper-tier municipality

14. (1) In a regular election for offices on the council of an upper-tier municipality, the clerk of the lower-tier municipality within the upper-tier municipality that has the greatest number of eligible electors is responsible for counting the votes in the ranked ballot election for offices on the council of the upper-tier municipality.

(2) In a by-election for an office on the council of an upper-tier municipality,

(a) if the geographic area of the office is wholly within one of the lower-tier municipalities, the clerk of the lower-tier municipality is responsible for counting the votes in the ranked ballot election; and

(b) if the geographic area of the office is within two or more of the lower-tier municipalities, the clerk of the lower-tier municipality that has the greatest number of eligible electors is responsible for counting the votes in the ranked ballot election.

(3) For the purposes of subsection (1) and clause (2) (b), the number of eligible electors is determined with reference to the voters' list for the lower-tier municipality, as the voters' list existed at the close of voting on voting day in the previous regular election.

(4) The clerk of the upper-tier municipality shall determine which lower-tier municipality is described in subsection (1) or clause (2) (a) or (b), as the case may be, based on information provided to him or her by the clerk of each lower-tier municipality, and shall tell the clerks of the lower-tier municipalities which clerk is responsible for counting the votes in the ranked ballot election.

(5) The clerk of the lower-tier municipality that is responsible for counting the votes shall promptly report the vote recorded to the clerk of the upper-tier municipality, who shall prepare the final summary and announce the result of the vote.

BALLOTS AND RANKING BY ELECTORS

Ballots

15. (1) Ballots used for ranked ballot elections must comply with the rules set out in this section in addition to the rules in subsection 41 (2) of the Act.

(2) The number of candidates to be elected for each office must appear on the ballot.

Instructions

16. Instructions to electors about the following matters must be made available at the voting place:

1. How to mark the ballot so that the ranking of candidates can be read by the clerk.

2. How to rank candidates in the order of the elector's preference.

3. The maximum number of candidates that can be ranked for each office, indicating that if the number of certified candidates for an office is fewer than the maximum number of candidates that can be ranked for the office, all candidates for the office may be ranked.

Elector's ranking of candidates

17. An elector ranks the candidates on a ballot by marking the ballot, in accordance with the instructions made available at the voting place, to indicate the elector's preferences.

Determining highest ranking

18. At each round of vote counting, the following rules describe how to determine which candidate an elector has ranked as the highest:

1. The elector’s preference for one candidate over the other candidates is indicated by rankings marked on the ballot.
2. If the ballot is marked to indicate more than one ranking for a single candidate, only the highest of those rankings is considered.
3. If the ballot is marked to indicate the rankings among the candidates, but there is no mark that indicates one or more of the rankings that could be assigned, the relative rankings that are marked indicate which candidate is ranked as the highest.
4. If the ballot is marked to indicate the rankings among the candidates, but the mark that indicates a ranking is not made inside the space provided for marking the ballot, only the relative rankings that are marked inside the space provided for marking the ballot indicate which candidate is ranked as the highest.

COUNTING THE VOTES — GENERAL

Threshold: number of votes needed to elect candidate

19. (1) The threshold is the number of votes sufficient for a candidate to be elected to an office and, in a ranked ballot election for an office, is determined using the formula,

$$[(A - B) \div (C + 1)] + 1$$

in which,

“A” is the total number of ballots cast for the office,

“B” is the number of ballots in which the votes for the office have been rejected from the count under subsection 54 (2) or (3) of the Act, as set out in section 4 of Schedule 1 to this Regulation, or under subsection 55 (3) or (4) of Act, as set out in section 4 of Schedule 2 to this Regulation, as applicable, and

“C” is the number of members to be elected to the office.

(2) If the formula results in a number that includes a fraction, the fraction is disregarded.

Eliminating candidates during a round of vote counting: single elimination method

20. (1) The single elimination method for eliminating a candidate from a round of vote counting is conducted in accordance with this section.

(2) The candidate with the fewest votes in a round, including transferred votes, is eliminated from the next round in accordance with section 24 or 26, as the case may be.

(3) In case of a tie between two or more candidates with the fewest votes in a round, the tie is resolved in accordance with section 25 or 27, as applicable in the circumstances.

(4) The clerk shall record the details of the resolution of any tie, and the resolution shall be re-used in any recount.

Batch elimination method

21. (1) The batch elimination method for eliminating one or more candidates from a round of vote counting is conducted in accordance with this section.

(2) Every candidate who has no mathematical chance of being elected during a round is eliminated from the next round in accordance with section 24 or 26, as the case may be.

(3) A candidate has no mathematical chance of being elected if either of the following circumstances exist:

1. If the sum of “D” and “E” for the candidate is less than the amount of “D” for the candidate with the next greater number of votes received, including transferred votes, where,

“D” is the number of votes received by the candidate, including transferred votes, and

“E” is the number of votes capable of being transferred to the candidate in future rounds,

- i. from candidates with fewer votes in the current round, and
- ii. from candidates with whom the candidate is tied in the current round.

2. If the amount of “D” for the candidate, as defined in paragraph 1, is less than the amount of “D” for a candidate who is eliminated under paragraph 1.

Choice of method

22. (1) On or before December 31 in the year before a regular election, the clerk shall determine whether the single elimination method described in section 20 or the batch elimination method described in section 21 for eliminating candidates during each round of vote counting shall be used in the election and shall notify each candidate in writing when the candidate's nomination is filed.

(2) In the case of a by-election, the clerk shall determine, at least 60 days before the first day on which an elector can vote, whether the single elimination method or the batch elimination method for eliminating candidates during each round of vote counting shall be used in the by-election and shall notify each candidate in writing.

(3) The same method must be used for all offices to be filled by the ranked ballot election, and for all rounds of vote counting for each office.

Exhausted ballots

23. A ballot cast by an elector in a ranked ballot election is exhausted at the end of a round of vote counting if any of the following circumstances exist:

1. The elector has not ranked any of the continuing candidates in the next round.
2. The elector's highest ranking for a continuing candidate in the next round cannot be determined.
3. The elector has ranked more candidates than the maximum number permitted for the office, and the elector's highest ranked continuing candidate in the next round holds a lower ranking than the lowest permitted ranking.

COUNTING FOR ELECTION OF ONE CANDIDATE TO AN OFFICE

Counting the votes, election of one candidate

24. (1) In a ranked ballot election in which one candidate is to be elected to an office, the votes are counted in accordance with this section and in the sequence set out in this section.

(2) Threshold: Calculate the threshold for the office under section 19.

(3) First round of vote counting: Conduct the first round of vote counting as follows:

1. Count the number of votes cast for each candidate as indicated by each elector's highest ranking on their ballot.
2. If the number of votes for a candidate equals or exceeds the threshold, take no further steps under this section and, as soon as possible after voting day, the clerk shall declare that candidate to be elected.
3. If no candidate has received sufficient votes to equal or exceed the threshold, eliminate a single candidate or a batch of candidates in accordance with section 20 or 21. If there is a tie between two or more candidates with the fewest votes, resolve the tie in accordance with section 25.
4. The candidates who have not been eliminated under paragraph 3 are continuing candidates in the next round.

(4) Exhausted ballots: Identify any exhausted ballots.

(5) Transfer of votes from eliminated candidates: Transfer the votes from the candidates eliminated in the first round to the continuing candidates in the next round as follows:

1. Transfer each vote received by each candidate eliminated in the first round to the continuing candidate who, as marked on the same elector's ballot, received the next highest ranking of all continuing candidates. If the elector's ballot is exhausted, his or her vote for an eliminated candidate shall not apply to any candidate.

(6) Second round of vote counting: Conduct the second round of vote counting as follows:

1. Count the number of votes cast for each continuing candidate as indicated by each elector's highest ranking of the continuing candidates on their ballot and the number of votes transferred to the candidate after the previous round.
2. If the number of votes received by a candidate equals or exceeds the threshold, take no further steps under this section and, as soon as possible after voting day, the clerk shall declare that candidate to be elected.
3. If no candidate has received sufficient votes to equal or exceed the threshold, eliminate a single candidate or a batch of candidates in accordance with section 20 or 21. If there is a tie between two or more candidates with the fewest votes, resolve the tie in accordance with section 25.
4. The candidates who have not been eliminated under paragraph 3 are continuing candidates in the next round.

(7) For subsequent rounds of vote counting: Repeat the steps set out in subsections (4), (5) and (6), with necessary modifications, for each subsequent round of vote counting until the number of votes received by one candidate equals or exceeds the threshold or until only two continuing candidates remain. Then take the following steps:

1. If the number of votes received by one candidate equals or exceeds the threshold, take no further steps under this section and, as soon as possible after voting day, the clerk shall declare that candidate to be elected.

2. If only two candidates remain, the clerk shall, as soon as possible after voting day, declare the candidate with the most votes, including transferred votes, to be elected.

Resolution of a tie vote, election of one candidate

25. In a ranked ballot election in which only one candidate is to be elected to an office, if there is a tie between two or more continuing candidates with the fewest votes, the tie is resolved in accordance with the following rules:

1. In the first round of vote counting, the tie is resolved by lot and the candidate chosen by lot is deemed to have the fewest votes.
2. In the second and any subsequent round,
 - i. the candidate with the fewest votes in the preceding round is deemed to have the fewest votes in the current round,
 - ii. if the candidates who are tied in the current round were tied in the preceding round, the candidate with the fewest votes in the round before the preceding round is deemed to have the fewest votes in the current round, and
 - iii. if the candidates who are tied in the current round were tied in all preceding rounds, the tie is resolved by lot and the candidate chosen by lot is deemed to have the fewest votes in the current round.

COUNTING FOR ELECTION OF MULTIPLE CANDIDATES TO AN OFFICE

Counting the votes, election of more than one candidate

26. (1) In a ranked ballot election in which more than one candidate is to be elected to an office, the votes are counted in accordance with this section and in the sequence set out in this section.

(2) Threshold: Calculate the threshold for the office under section 19.

(3) First round of vote counting: Conduct the first round of vote counting as follows:

1. Count the number of votes cast for each candidate as indicated by each elector’s highest ranking on their ballot.
2. Determine the number of candidates for whom the number of votes cast, as described in paragraph 1, equals or exceeds the threshold.
3. If the number of candidates determined under paragraph 2 equals the number of candidates to be elected to the office, take no further steps under this section and, as soon as possible after voting day, the clerk shall declare all of those candidates to be elected.
4. If the number of candidates determined under paragraph 2 is less than the number of candidates to be elected to the office, determine which of them has the greatest number of votes (the “successful candidate”) and, as soon as possible after voting day, the clerk shall declare that candidate to be elected.
5. If there is no successful candidate, eliminate a single candidate or batch of candidates in accordance with section 20 or 21. If there is a tie between two or more candidates, resolve the tie in accordance with section 27.
6. The candidates (other than the successful candidate, if any) who have not been eliminated under paragraph 5 are continuing candidates for the next round.

(4) Exhausted ballots: Identify any exhausted ballots.

(5) Transfer of partial votes from the successful candidate: For each vote cast for the successful candidate, if any, in the first round, determine the surplus portion of the vote and transfer it from the successful candidate to the continuing candidates as follows:

1. Calculate the transfer ratio for the successful candidate in the first round, using the formula,

$$(F - E) \div F$$

in which,

“E” is the threshold for the office, and

“F” is the number of votes cast for the successful candidate.

2. For each vote cast for the successful candidate (referred to in this subsection and in subsection (7) as a “successful vote”), calculate the surplus portion of the vote using the formula,

$$G \times H$$

in which,

“G” is the transfer ratio for the successful candidate, and

“H” is one vote.

3. For each elector who cast a successful vote, transfer the surplus portion of the elector’s successful vote to the continuing candidate who, as marked on the elector’s ballot, has the highest ranking of all of the continuing candidates. If the elector’s ballot is exhausted, the surplus portion of his or her vote shall not apply to any candidate.

(6) Transfer of votes from eliminated candidates: Transfer the votes from the candidates, if any, eliminated in the first round to the continuing candidates as follows:

1. Transfer each vote cast for each candidate eliminated in the first round to the continuing candidate who, as marked on the same elector’s ballot, has the highest ranking of all of the continuing candidates. If the elector’s ballot is exhausted, his or her vote for an eliminated candidate shall not apply to any candidate.

(7) Second round of vote counting: Conduct the second round of vote counting as follows:

1. Count the number of votes cast for each continuing candidate as indicated by each elector’s highest ranking of the continuing candidates on their ballot and count the number of votes, and the surplus portion of successful votes, that were transferred to the candidate after the previous round.
2. If the number of votes received by one or more candidates exceeds the threshold, determine which of them has the greatest number of votes (the “successful candidate”) and, as soon as possible after voting day, the clerk shall declare that candidate to be elected.
3. If the cumulative number of successful candidates equals the number of candidates to be elected to office, take no further steps under this section and, as soon as possible after voting day, the clerk shall declare those candidates to be elected.
4. If there is no successful candidate in this round, eliminate a single candidate or batch of candidates in accordance with section 20 or 21. If there is a tie between two or more candidates, the tie is resolved in accordance with section 27.
5. The candidates (other than any successful candidates) who have not been eliminated under paragraph 4 are continuing candidates for the next round.

(8) Exhausted ballots: Identify any exhausted ballots.

(9) Transfer of partial votes from the successful candidate: Transfer the votes received in the second round by the successful candidate, if any, to the continuing candidates as follows:

1. Calculate the transfer ratio for the successful candidate in the second round, using the formula,

$$(J - E) \div J$$

in which,

“E” is the threshold for the office, and

“J” is the number of votes received by the successful candidate, including transferred votes.

2. For each vote cast for the successful candidate and each vote transferred from an eliminated candidate after the previous round (each of which is referred to in this subsection and in subsection (10) as a “successful vote”), calculate the surplus portion of the successful vote using the formula,

$$K \times L$$

in which,

“K” is the transfer ratio for the successful candidate, and

“L” is one vote.

3. Transfer the surplus portion of the successful vote to the continuing candidate who, as marked on the same elector’s ballot, has the highest ranking of all of the continuing candidates. If the elector’s ballot is exhausted, the surplus portion of his or her vote shall not apply to any candidate.
4. For each surplus portion of a successful vote that was transferred to the successful candidate after the previous round (the “previously transferred portion”), calculate the surplus portion of the previously transferred portion using the formula,

$$K \times M$$

in which,

“K” is the transfer ratio for the successful candidate, and

“M” is the previously transferred portion of one vote.

5. Transfer the surplus portion of the previously transferred portion to the continuing candidate who, as marked on the same elector's ballot, has the highest ranking of all of the continuing candidates. If the elector's ballot is exhausted, the surplus portion of the previously transferred portion shall not apply to any candidate.
- (10) Transfer of votes from eliminated candidates: Transfer the votes received in the second round by the candidates, if any, eliminated in that round to the continuing candidates as follows:
1. Transfer each vote cast for each candidate eliminated in the second round to the continuing candidate who, as marked on the same elector's ballot, has the highest ranking of all of the continuing candidates. If the elector's ballot is exhausted, his or her vote for an eliminated candidate shall not apply to any candidate.
 2. Transfer each vote that was transferred to the eliminated candidate after a previous round to the continuing candidate who, as marked on the same elector's ballot, has the highest ranking of all of the continuing candidates. If the elector's ballot is exhausted, his or her vote shall not apply to any candidate.
 3. Transfer the previously transferred portion of any successful vote that was transferred to the eliminated candidate after the previous round to the continuing candidate who, as marked on the same elector's ballot, has the highest ranking of all of the continuing candidates. If the elector's ballot is exhausted, the previously transferred portion of his or her vote shall not apply to any candidate.
- (11) For subsequent rounds of vote counting: Repeat the steps set out in subsections (7) to (10), with necessary modifications, until the number of continuing candidates equals the remaining number of candidates to be elected to the office, or until only two continuing candidates remain. Then take the following steps:
1. If the number of continuing candidates equals the remaining number of candidates to be elected to the office, take no further steps under this section and, as soon as possible after voting day, the clerk shall declare those candidates to be elected.
 2. If only two continuing candidates remain, the clerk shall, as soon as possible after voting day, declare the candidate with the most votes, including transferred votes, to be elected.
- (12) The amounts referred to in paragraphs 1 and 2 of subsection (5) and paragraphs 1, 2 and 4 of subsection (9) shall be calculated to four decimal places, ignoring any remainder.

Resolution of a tie vote, election of more than one candidate

27. (1) In a ranked ballot election in which more than one candidate is to be elected to an office, if there is a tie between two or more candidates with votes that equal or exceed the threshold, the tie is resolved in accordance with the following rules:

1. In the first round of vote counting, the tie is resolved by lot and the candidate chosen by lot is deemed to have the greatest number of votes in the current round.
2. In the second and any subsequent round,
 - i. the candidate who had the greatest number of votes in the preceding round is deemed to have the greatest number of votes in the current round,
 - ii. if the candidates who are tied in the current round were tied in the preceding round, the candidate who had the greatest number of votes in the round before the preceding round is deemed to have the greatest number of votes in the current round, and
 - iii. if the candidates who are tied in the current round were tied in all preceding rounds, the tie is resolved by lot and the candidate chosen by lot is deemed to have the greatest number of votes in the current round.
3. The clerk shall record the details of the resolution of any tie, and the resolution shall be re-used in any recount.

(2) In a ranked ballot election in which more than one candidate is to be elected to an office, if there is a tie between two or more candidates with the fewest votes, the tie is resolved in accordance with the following rules:

1. In the first round of vote counting, the tie is resolved by lot and the candidate chosen by lot is deemed to have the fewest votes.
2. In the second and any subsequent round,
 - i. the candidate with the fewest votes in the preceding round is deemed to have the fewest votes in the current round,
 - ii. if the candidates who are tied in the current round were tied in the preceding round, the candidate with the fewest votes in the round before the preceding round is deemed to have the fewest votes in the current round, and
 - iii. if the candidates who are tied in the current round were tied in all preceding rounds, the tie is resolved by lot and the candidate chosen by lot is deemed to have the fewest votes in the current round.

INFORMATION ABOUT ELECTION RESULTS

Report following election

28. As soon as possible after voting day, the clerk shall make the following information about the election for an office available to the public on a website or in another electronic format:

1. The number of ballots cast.
2. The number of ballots that were declined.
3. The number of ballots in which the votes for the office were rejected.
4. The threshold calculated under section 19 for the office.
5. The number of votes cast for each candidate at the first round of vote counting.
6. The results of each round of vote counting, including the number of votes received by each continuing candidate for the round and the number of exhausted ballots.

VARIATIONS TO THE ACT

Ranked ballot election only

29. The variations to the Act set out in Schedule 1 apply with respect to circumstances where a ranked ballot election does not occur concurrently with an election that is not a ranked ballot election.

Ranked ballot election concurrent with non-ranked ballot election

30. The variations to the Act set out in Schedule 2 apply with respect to circumstances where a ranked ballot election occurs concurrently with an election that is not a ranked ballot election.

31. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

SCHEDULE 1 VARIATIONS TO THE ACT — RANKED BALLOT ELECTIONS

Variations to section 47 of the Act

1. (1) The reference to “clause 55 (1) (d)” in clause 47 (5) (a) of the Act shall be read as a reference to “paragraph 2 of subsection 54 (1)”.

(2) The references to “the deputy returning officer” in clauses 47 (5) (e) and (h) of the Act shall be read as references to “the clerk”.

(3) Clause 47 (5) (g) of the Act does not apply.

(4) The reference to “clause 55 (1) (c)” in clause 47 (5) (h) of the Act shall be read as a reference to “clause 55 (1) (b)”.

Variation to section 51 of the Act

2. Paragraph 3 of subsection 51 (2) of the Act does not apply.

Variation to section 52 of the Act

3. Clause 52 (3) (a) of the Act does not apply.

Variations to section 54 of the Act

4. Section 54 of the Act shall be read as follows:

Counting of votes

54. (1) Immediately after the close of voting on voting day, the following steps shall be taken:

1. The deputy returning officer shall seal the ballot box for his or her voting place so that ballots cannot be deposited in or withdrawn from it without breaking the seal.
2. The deputy returning officer shall deliver the ballot box to the clerk.
3. The clerk shall, as soon as possible after receiving the ballot boxes, open the boxes and proceed to count votes in accordance with Ontario Regulation 310/16.

Rejection of votes in a ballot

- (2) The clerk shall reject from the count all votes in a ballot, if the ballot,
 - (a) was not supplied by the deputy returning officer; or

- (b) contains writing or marks that may identify the elector, or is torn, defaced or otherwise dealt with by the elector in a way that may identify him or her.

Rejection of votes for an office

- (3) The clerk shall reject from the count the votes in the ballot for an office,
 - (a) if the ballot is marked to indicate that more than one candidate for the office has been given the highest ranking;
 - (b) if all rankings for the office are marked outside the space provided for marking the ballot; or
 - (c) if no rankings have been assigned to any candidate for the office.

Objections

(4) A scrutineer or certified candidate may object to a ballot, or to the counting of some or all votes in a ballot, on the ground that the ballot or votes do not comply with the rules set out in subsections (2) and (3).

Duty of the clerk

- (5) The clerk shall,
 - (a) decide all objections;
 - (b) establish a list in which the objections are summarized and individually numbered; and
 - (c) write the number of each objection on the back of the relevant ballot and initial the number.

Variations to section 55 of the Act

5. (1) Subsection 55 (1) of the Act shall be read as follows:

Clerk's duties re ballot box

- (1) As soon as possible after counting the votes, the clerk shall,
 - (a) place the ballots and all other materials and documents related to the election in a ballot box; and
 - (b) seal the ballot box so that ballots cannot be deposited in or withdrawn from it without breaking the seal.
- (2) Subsections 55 (2) to (5) of the Act do not apply.

Variation to section 57 of the Act

6. Subclause 57 (1) (a) (i) of the Act shall be read without "or specified".

Variations to section 58 of the Act

7. Subsection 58 (3) of the Act shall be read as follows:

Order, notice

(3) If satisfied that there are sufficient grounds for it, the court shall make an order requiring the clerk to hold a recount of the votes cast for all candidates and shall give the clerk a copy of the order as soon as possible.

Variation to section 59 of the Act

8. Section 59 of the Act does not apply.

Variations to section 60 of the Act

9. Subsection 60 (2) of the Act shall be read as follows:

Rules re recount

- (2) A recount shall be conducted in accordance with the following rules:
 - 1. The clerk shall give notice of the recount to,
 - i. every certified candidate for an office that is the subject of the recount,
 - ii. in the case of a recount requested under subsection 57 (1), the council, local board or Minister, as the case may be, and
 - iii. in the case of a recount ordered under section 58, the applicant.
 - 2. The clerk shall open the ballot boxes and conduct a recount of all votes for all candidates.
 - 3. The clerk shall reject from the count all votes in a ballot, if the ballot,
 - i. was not supplied by the deputy returning officer, or

- ii. contains writing or marks that may identify the elector, or is torn, defaced or otherwise dealt with by the elector in a way that may identify him or her.
4. The clerk shall reject from the count the votes in the ballot for an office,
- i. if the ballot is marked to indicate that more than one candidate for the office has been given the highest ranking,
 - ii. if all rankings for the office are marked outside the space provided for marking the ballot, or
 - iii. if no rankings have been assigned to any candidate for the office.

Variations to section 62 of the Act

10. (1) Clause 62 (1) (b) of the Act shall be read as follows:

- (b) if there are disputed ballots,
 - (i) announce the number of them, and
 - (ii) write the number of the voting place on the back of, and initial, each disputed ballot, place them in a separate envelope clearly marked so as to indicate its contents, and seal the envelope.
- (2) Subsection 62 (3) of the Act does not apply.

Variations to section 63 of the Act

11. (1) The reference to “a recount limited to the disputed ballots” in subsection 63 (1) of the Act shall be read as a reference to “a determination of the validity of the disputed ballots and for a recount”.

(2) Subsections 63 (2), (4), (5), (6) and (8) of the Act shall be read as follows:

Who may apply

(2) Subsection (1) applies to a certified candidate or an applicant under section 58.

Summary procedure

(4) The application shall be dealt with in a summary manner, without application records or factums.

Clerk to attend court

- (5) The clerk shall attend court on the hearing of the application and provide the court with,
- (a) a certified copy of the result of the recount conducted by the clerk;
 - (b) the sealed envelope containing the disputed ballots from the recount conducted by the clerk; and
 - (c) any other documents relating to the election that are relevant to the application.

Duty of court

- (6) If the court determines that a recount is required, the court shall,
- (a) determine the validity of the disputed ballots;
 - (b) require a recount of the votes with respect to all candidates for the office that is the subject of the recount;
 - (c) require the clerk to conduct the recount;
 - (d) return to the clerk the material provided under subsection (5); and
 - (e) require the clerk to report the results of the recount to the court.

Order

- (8) When the recount is complete and the clerk reports the results to the court, the court shall,
- (a) make an order incorporating its decisions under subsection (6); and
 - (b) announce to the persons present,
 - (i) the result of the recount, and
 - (ii) how the court dealt with the disputed ballots.

Variation to section 64 of the Act

12. The reference to “under section 55” in subsection 64 (1) of the Act shall be read as a reference to “under section 24 or 26 of Ontario Regulation 310/16”.

Variation to section 88 of the Act

13. The reference to “under section 55” in subsection 88 (1) of the Act shall be read as a reference to “under section 24 or 26 of Ontario Regulation 310/16”.

SCHEDULE 2
VARIATIONS TO THE ACT — RANKED BALLOT ELECTIONS CONCURRENT WITH NON-RANKED BALLOT ELECTIONS

GENERAL

Application

1. The variations to the Act that are set out in sections 2 to 6 of this Schedule apply with respect to the election that is a ranked ballot election and the election that is not a ranked ballot election.

Variations to section 47 of the Act

2. (1) The reference to “clause 55 (1) (d)” in clause 47 (5) (a) of the Act shall be read as a reference to “clause 54 (6) (d)”.
- (2) Clauses 47 (5) (e), (f) and (h) of the Act shall be read as follows:
- (e) to examine each ballot as the votes are being counted by the deputy returning officer under section 54 or by the clerk under section 55 (but not to touch the ballot);
 - (f) to object to a ballot or to the counting of votes in a ballot under subsection 54 (4) in respect of an election that is not a ranked ballot election or under subsection 55 (5) in respect of a ranked ballot election;
 -
 - (h) to place his or her own seal on the ballot box after the counting of the votes, when the deputy returning officer seals the box under clause 54 (6) (c) or when the clerk seals the box under clause 55 (7) (b), so that ballots cannot be deposited or withdrawn without breaking the seal.

Variations to section 54 of the Act

3. Section 54 of the Act shall be read as follows:

Rules re non-ranked ballot elections

54. (1) This section applies with respect to an election that is not a ranked ballot election.

Counting of votes

- (2) Immediately after the close of voting on voting day, the deputy returning officer shall open the ballot box for his or her voting place and proceed to count,
- (a) in the case of an election for office, the number of votes for each candidate;
 - (b) in the case of an election to obtain the assent of the electors to a by-law, the number of votes in favour of the by-law and the number opposed to it; and
 - (c) in the case of an election to obtain the opinion of the electors on any question, the number of votes for each possible answer to the question.

Rejection of ballots

(3) The deputy returning officer shall reject from the count all ballots and votes in a ballot that do not comply with the prescribed rules.

Objections

(4) A scrutineer or certified candidate may object to a ballot, or to the counting of some or all votes in a ballot, on the ground that the ballot or votes do not comply with the prescribed rules.

Duty of deputy returning officer

- (5) The deputy returning officer shall,
- (a) decide all objections;
 - (b) establish a list in which the objections are summarized and individually numbered; and
 - (c) write the number of each objection on the back of the relevant ballot and initial the number.

Delivery of ballot box to clerk

- (6) As soon as possible after counting the votes, the deputy returning officer shall,
- (a) prepare a statement, in duplicate, showing the results of the election at the voting place;

- (b) place the ballots and all other materials and documents related to the election, except the original statement of results, in the ballot box;
- (c) seal the ballot box so that ballots cannot be deposited in or withdrawn from it without breaking the seal; and
- (d) deliver the original statement of results and the ballot box to the clerk.

Copies of statement

- (7) A scrutineer or certified candidate is entitled to receive a copy of the statement of results from the clerk, on request.

Results of elections

(8) The clerk shall determine the results of the election by compiling the statements of results received from the deputy returning officers.

Declaration

- (9) The clerk shall, as soon as possible after voting day,
 - (a) declare the candidate or candidates, as the case may be, who received the highest number of votes to be elected; and
 - (b) declare the result of any vote on a by-law or question.

Information to be made available

(10) As soon as possible after voting day, the clerk shall make the following information available at no charge for viewing by the public on a website or in another electronic format:

- 1. The number of votes for each candidate.
- 2. The number of declined and rejected ballots.
- 3. The number of votes for the affirmative or negative on a by-law or question.

Examination of documents and materials

(11) Despite subsection 88 (6.1), the clerk may, if he or she considers it necessary in order to interpret the statement of results, examine any of the documents and materials in a ballot box in the presence of the relevant deputy returning officer.

Variations to section 55 of the Act

- 4. Section 55 of the Act shall be read as follows:

Rules re ranked ballot elections

- 55. (1) This section applies with respect to a ranked ballot election.

Counting of votes

(2) As soon as possible after receiving the ballot box from the deputy returning officer under clause 54 (6) (d), the clerk shall open the box and proceed to count votes in respect of the ranked ballot election in accordance with Ontario Regulation 310/16.

Rejection of votes in a ballot

- (3) The clerk shall reject from the count all votes in a ballot, if the ballot,
 - (a) was not supplied by the deputy returning officer; or
 - (b) contains writing or marks that may identify the elector, or is torn, defaced or otherwise dealt with by the elector in a way that may identify him or her.

Rejection of votes for an office

- (4) The clerk shall reject from the count the votes in the ballot for an office,
 - (a) if the ballot is marked to indicate that more than one candidate for the office has been given the highest ranking;
 - (b) if all rankings for the office are marked outside the space provided for marking the ballot; or
 - (c) if no rankings have been assigned to any candidate for office.

Objections

(5) A scrutineer or certified candidate may object to a ballot, or to the counting of some or all votes in a ballot, on the ground that the ballot or votes do not comply with the rules set out in subsections (3) and (4).

Duty of the clerk

- (6) The clerk shall,

- (a) decide all objections;
- (b) establish a list in which the objections are summarized and individually numbered; and
- (c) write the number of each objection on the back of the relevant ballot and initial the number.

Clerk's duties after counting

- (7) As soon as possible after counting the votes, the clerk shall,
 - (a) place the ballots and all other materials and documents related to the election in a ballot box; and
 - (b) seal the ballot box so that ballots cannot be deposited in or withdrawn from it without breaking the seal.

Variations to section 64 of the Act

5. Subsection 64 (1) of the Act shall be read as follows:

Right to sit pending final disposition

(1) A candidate who has been declared elected under section 24 or 26 of Ontario Regulation 310/16, in respect of a ranked ballot election, or under section 55 of this Act as modified by Schedule 2 of that Regulation, in respect of an election that is not a ranked ballot election, is entitled to sit and vote on the council or local board until the recount and all applications under this Act have been finally disposed of and a different candidate has been declared elected.

Variations to section 88 of the Act

6. Subsection 88 (1) of the Act shall be read as follows:

120-day retention period

(1) The clerk shall retain the ballots and all other documents and materials related to an election for 120 days after declaring the results of the election under section 24 or 26 of Ontario Regulation 310/16, in respect of a ranked ballot election, or under section 55 of this Act as modified by Schedule 2 of that Regulation, in respect of an election that is not a ranked ballot election.

FOR THE ELECTION THAT IS NOT A RANKED BALLOT ELECTION

Application: variation to section 47 of the Act

7. The following variations to the Act apply with respect to the election that is not a ranked ballot election:

- 1. The reference to "clause 55 (1) (a)" in clause 47 (5) (g) of the Act shall be read as a reference to "clause 54 (6) (a)".

FOR THE ELECTION THAT IS A RANKED BALLOT ELECTION

Application

8. The variations to the Act that are set out in sections 9 to 17 of this Schedule apply with respect to the election that is a ranked ballot election.

Variation to section 47 of the Act

9. Clause 47 (5) (g) of the Act does not apply.

Variation to section 51 of the Act

10. Paragraph 3 of subsection 51 (2) of the Act does not apply.

Variation to section 52 of the Act

11. Clause 52 (3) (a) of the Act does not apply.

Variation to section 57 of the Act

12. Subclause 57 (1) (a) (i) of the Act shall be read without "or specified".

Variations to section 58 of the Act

13. Subsection 58 (3) of the Act shall be read as follows:

Order, notice

(3) If satisfied that there are sufficient grounds for it, the court shall make an order requiring the clerk to hold a recount of the votes cast for all candidates and shall give the clerk a copy of the order as soon as possible.

Variation to section 59 of the Act

14. Section 59 of the Act does not apply.

Variations to section 60 of the Act

15. Subsection 60 (2) of the Act shall be read as follows:

Rules re recount

(2) A recount shall be conducted in accordance with the following rules:

1. The clerk shall give notice of the recount to,
 - i. every certified candidate for an office that is the subject of the recount,
 - ii. in the case of a recount requested under subsection 57 (1), the council, local board or Minister, as the case may be, and
 - iii. in the case of a recount ordered under section 58, the applicant.
2. The clerk shall open the ballot boxes and conduct a recount of all votes for all candidates.
3. The clerk shall reject from the count all votes in a ballot, if the ballot,
 - i. was not supplied by the deputy returning officer, or
 - ii. contains writing or marks that may identify the elector, or is torn, defaced or otherwise dealt with by the elector in a way that may identify him or her.
4. The clerk shall reject from the count the votes in the ballot for an office,
 - i. if the ballot is marked to indicate that more than one candidate for the office has been given the highest ranking,
 - ii. if all rankings for the office are marked outside the space provided for marking the ballot, or
 - iii. if no rankings have been assigned to any candidate for the office.

Variations to section 62 of the Act

16. (1) Clause 62 (1) (b) of the Act shall be read as follows:

(b) if there are disputed ballots,

- (i) announce the number of them, and
- (ii) write the number of the voting place on the back of, and initial, each disputed ballot, place them in a separate envelope clearly marked so as to indicate its contents, and seal the envelope.

(2) Subsection 62 (3) of the Act does not apply.

Variations to section 63 of the Act

17. (1) The reference to “a recount limited to the disputed ballots” in subsection 63 (1) of the Act shall be read as a reference to “a determination of the validity of the disputed ballots and for a recount”.

(2) Subsections 63 (2), (4), (5), (6) and (8) of the Act shall be read as follows:

Who may apply

(2) Subsection (1) applies to a certified candidate or an applicant under section 58.

Summary procedure

(4) The application shall be dealt with in a summary manner, without application records or factums.

Clerk to attend court

- (5) The clerk shall attend court on the hearing of the application and provide the court with,
- (a) a certified copy of the result of the recount conducted by the clerk;
 - (b) the sealed envelope containing the disputed ballots from the recount conducted by the clerk; and
 - (c) any other documents relating to the election that are relevant to the application.

Duty of court

- (6) If the court determines that a recount is required, the court shall,
- (a) determine the validity of the disputed ballots;
 - (b) require a recount of the votes with respect to all candidates for the office that is the subject of the recount;
 - (c) require the clerk to conduct the recount;
 - (d) return to the clerk the material provided under subsection (5); and

- (e) require the clerk to report the results of the recount to the court.

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Order

- (8) When the recount is complete and the clerk reports the results to the court, the court shall,
 - (a) make an order incorporating its decisions under subsection (6); and
 - (b) announce to the persons present,
 - (i) the result of the recount, and
 - (ii) how the court dealt with the disputed ballots.

Français

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