



**ONTARIO PUBLIC
SCHOOL BOARDS'
ASSOCIATION**

Leading Education's Advocates

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**To: Pat Hoy, MPP and Chair of the Standing Committee on Finance and Economic Affairs
William Short, Clerk of the Standing Committee on Finance and Economic Affairs**

Re: OPSBA Submission regarding Bill 212, Good Government Act, 2009

Introduction

The Ontario Public School Boards' Association (OPSBA) represents the province's public district school boards. Together our members serve the educational needs of almost 70% of Ontario's elementary and secondary students. In addition to advocacy on behalf of Ontario students, our Association provides services to school boards and to school trustees who are elected to public office through Municipal elections. We are an organization that has a strong history of advocacy and have consistently participated in consultation around many pieces of legislation that affect our members.

We appreciate the opportunity to present this submission to the Standing Committee on Finance and Economic Affairs regarding Bill 212, Good Government Act, 2009. We realize that Bill 212 includes amendments to a number of Acts and we will be commenting specifically to the proposed changes to the *Municipal Elections Act, 1996*.

Our initial comment regarding this Bill is the rapid pace of its movement from its introduction on October 27th to the time allocation motion on November 17th. There are substantive amendments to legislation embedded in a Bill hundreds of pages long that, at first blush, appears to be mostly about "housekeeping" matters. The size and complexity of detail in this Bill combined with the speed of its consideration in the legislature creates the very real concern that many stakeholders may not be fully aware of the contents of the Bill nor the consequences of its passage. We believe this complex piece of legislation which affects at least 24 ministries and in some areas proposes substantive changes to various Acts, would have benefitted from more in-depth consultation and time allotted to public hearings.

Comment on Specific Provisions of Bill 212

As mentioned above, we will comment only on the main amendments proposed to the *Municipal Elections Act, 1996*. This includes those areas we support and those that require further consideration.

Election Calendar

OPSBA agrees with the various changes to the election calendar, including the proposal to move Voting Day ahead. The change will provide candidates with more daylight hours for canvassing and will possibly allow more Ontarians (those that may travel south for the winter months) to vote. We support the alignment of the nomination and voting time periods and the 2pm deadline that is similar to provincial and federal election procedures.

We recommend that there be well-distributed public information with regard to the earlier time for close of nominations to ensure that candidates running for re-election who are most familiar with the later time are not caught unaware and find themselves excluded.

We understand the firm deadline of March 31st for filing financial statements and auditor's reports that gives elected trustees 5 months from voting day to file. We believe this is a reasonable amount of time.

We recommend effective public communications about requirements for filing financial statements.

Accessibility

We were extremely pleased to see the new and revised requirements concerning accessibility. They are examples of good practice and support the provisions in the *Accessibility for Ontarians with Disabilities Act, 2005*.

Election Finance and Contribution Limits

We understand the rationale for capping contribution limits in order to provide a more democratic process and equal opportunities among candidates. However, this does not take into consideration the variations in size amongst school boards (i.e. 7 to 22 trustees). This would seem to penalize larger boards where the maximum contribution of \$5,000 must be split among more candidates.

We support the amendment that allows expenses relating to a compliance audit and expenses incurred by a candidate with a disability to not be included in the candidate's spending limit.

OPSBA also supports the clarification around fundraising activities. We understand that the amendment is to recognize only those events where the primary purpose is fund-raising as a campaign expense. A candidate brochure with a contribution request at the end would not be considered fundraising because the brochure was designed to introduce and promote the candidate.

Regarding campaign surpluses, we understand that trustees will no longer be able to keep the first \$500.00 of any surplus. However, a candidate would still be permitted to refund to himself or herself or to their spouse, the lesser of, the campaign contributions of the candidate and/or his or her spouse and the surplus, prior to finalizing the candidate's financial statement

Voter List

We support the authorization of allowing the Municipal Property Assessment Corporation (MPAC) to obtain information from the Registrar General in order to have a more accurate list.

Voting Process

OPSBA supports the change requiring voters to present identification. We understand that the prescribed forms of acceptable identification create a reasonable degree of flexibility to ensure discretion for the Deputy Returning Officer in determining eligibility.

Election Compliance and Enforcement

OPSBA is most concerned about the proposed changes under this section.

School board trustees come from a variety of different backgrounds but they share a strong commitment for promoting student achievement and well being. Although an honorarium is provided, which varies according to the size of the Board from approximately \$6,000 to \$26,000, this is not a salary and many trustees are either parents who are not in the paid workforce or are individuals who work at other jobs and careers.

We believe that the deadlines and the processes involved may be more onerous for trustees who do not have access to the resources that federal, provincial or even municipal councillor candidates have.

We recommend that effective communication measures are in place to provide all candidates with knowledge of the processes and procedures involved for applying for extensions and the consequences of missing the deadline.

With regard to the establishment of an audit committee, we are concerned about the potential for confusion flowing from other proposed legislation. Bill 177 which is currently going to Third Reading also contains a requirement that school boards establish an audit committee. Although the membership and responsibilities of the audit committee proposed in Bill 212 are different, the name is the same, hence the scope for confusion.

We recommend that this committee be called an "Election Compliance Audit Committee."

Finally, the most troubling provision of this legislation is the proposed increase in fines. A potential fine of \$25,000 for one individual is extremely harsh. This proposed increase, related to an office

that attracts at maximum an honorarium of \$26,000 is difficult to understand given that a provincial representative with a substantial salary is currently liable only for a maximum fine of \$5,000.

We recommend that fines be at or below the level that pertains to provincial elections.

Combined with other proposed legislation under consideration in the current session, there appears to be a trend of subjecting school board trustees to standards that do not apply to other elected officials. Local school boards represent the earliest form of governance established in Canada by European settlers; they are local democracy in action at the most grass roots level and such provisions appear to throw up barriers to the average citizen running for office.

Finally, we had identified some issues arising from the November 2006 municipal elections and had brought it to the attention of Ministers Jim Watson and Kathleen Wynne. In our letter dated February 19, 2008 we stated that,

“Information shared with OPSBA with regard to the November 2006 elections included a report that an acclaimed candidate for one board approached voters at the polling station(s) with a request to change their school support at the polls, so that they could vote for (or against) a particular candidate on the coterminous board. This is a disturbing practice that undermines the democratic process.

OPSBA recommends that the Municipal Elections Act and/or the Education Act, be amended to include a restriction from changing school support between September 1 and the date of the election, inclusive, in a municipal election year, except in situations where property residency and/or ownership changes or to correct information that is clearly erroneous.

OPSBA makes this recommendation after a thorough exploration of all aspects of the issue. The OPSBA Board considered very carefully: how such a proposal could impact all voters, not just public school voters; how such a restriction could affect families who wish to switch systems for religious or for pedagogical or programming reasons, or families with children in both systems; how such a restriction could affect families moving residences and inadvertently misdirecting their school support; how such a restriction would affect voters who were tenants and not property owners; and, the need to ensure correct school support information exists where mail-in ballots are used.

The Association emphasizes that the intent of this recommendation is to contain voting and electoral irregularities which distort the democratic process and thereby have an unfair impact on all voters and candidates for office.”

We would once again ask that you consider our earlier recommendation.

Conclusion

Trustees have an extremely important job. As elected officials, they serve as representatives for public education with their local communities. We are hopeful that appropriate amendments, including the suggestions we have made, will strengthen the democratic process and provide more clarity around the process involved.

We look forward to working together with the Ministry of Municipal Affairs and Housing regarding ongoing training and communications such as the upcoming workshops on Bill 212 and any other documents and revised guides that will be useful to our members.

Thank you for the opportunity to share OPSBA's comments on Bill 212.

A handwritten signature in black ink, appearing to read "C. Schenk". The signature is fluid and cursive, with a long horizontal stroke at the end.

Colleen Schenk
President
Ontario Public School Boards' Association