



**Ministry of Attorney General
Strategic Planning and Legislation Office**

**Consultation on Regulating Funding for
Electoral Reform Referendum
Proponent and Opponent Groups**

Consultation on Regulating Funding for Electoral Reform Referendum Proponent and Opponent Groups

On March 31, 2008, the British Columbia Legislature enacted the *Electoral Reform Referendum 2009 Act*, which creates the legal framework for holding the May 12, 2009 referendum on the Single Transferable Vote (STV) system proposed by the Citizens' Assembly on Electoral Reform.

The Act may be viewed online at: http://www.qp.gov.bc.ca/statreg/stat/E/08009_01.htm.

The Act permits public funding to be provided to registered proponent and opponent groups – that is, groups in favour of or opposed to STV. This funding will be in the amount of \$500,000 for proponents and \$500,000 for opponents.

Regulations must be established under the Act to govern how these funds will be awarded and administered. This document is a description of the proposed funding rules.

REQUEST FOR COMMENTS

The Ministry of Attorney General, which is responsible for election and referendum law, is seeking public comment on the proposed funding rules.

Comments should be submitted **by September 5, 2008** to the Strategic Planning and Legislation Office:

By email: AGWEBFEEDBACK@gov.bc.ca (Include "Referendum Groups" in the subject line.)

By mail: Strategic Planning and Legislation Office
Ministry of Attorney General
PO Box 9283 Stn Prov Govt
Victoria BC V8W 9J7

By fax: 250 953-4072

Please note that freedom of information legislation may require the Ministry to make responses available to those requesting access.

SUMMARY OF THE PROPOSED PROCESS

The proposed registration process is based on parts of the British Columbia *Recall and Initiative Act*. It provides for a maximum of five registered groups on either side of the referendum debate. This is intended to ensure that the public funding being provided to the groups may be used effectively. Registered groups may be “umbrella” groups made up of more than one original applicant for funding.

Each group must be represented by a financial agent whom the group nominates. The financial agent will be the principal financial officer of the group, with responsibilities for accounting for and reporting on the use of the funds.

Funding may be used only for activities that specifically support or oppose the Single Transferable Vote electoral system. The process will be administered by the Chief Electoral Officer (CEO), an independent officer of the Legislature. Funds that are unused or misused would be repaid to government through the CEO.

DETAILS OF PROPOSED PROCESS

1. Who could apply for public funding

Any individual or organization within British Columbia could apply to be registered as a group except for the following:

- a political party or constituency association;
- a candidate in the May 2009 provincial general election or someone who intends to become a candidate;
- an election official, a voter registration official or an individual who is otherwise a member of the staff of the chief electoral officer;
- an individual who does not have the capacity to enter into contracts;
- an individual who is under the age of 18, is not a Canadian citizen or who has not been resident in British Columbia for at least 6 months immediately before general voting day for the referendum;
- an individual who has been convicted, at any time within the previous 7 years, of an offence under the *Recall and Initiative Act* or the *Election Act*.

2. Application requirements

Applicants would be required to apply to the Chief Electoral Officer (CEO) within the specified time period and include the following information on the application:

- the name of the individual or names of the principal officers or principal members of the organization applying, along with relevant contact information;
- a signed statement that the applicant is not disqualified from being a registered proponent or opponent group [see “**Who could apply for public funding**”, above];
- the name of an individual to act as the applicant’s financial agent (if the applicant is an individual, he or she may nominate himself or herself as financial agent), and a signed statement of consent by the proposed financial agent that he or she agrees to act as the agent and is not disqualified from doing so. The same eligibility criteria for applicants also apply to financial agents [see “**Who could apply for public funding**”, above];
- a statement that the applicant either supports or opposes the single transferable vote electoral system that will be the subject of the May 2009 referendum and that if registered, the applicant will engage in public information activities to advance that position.

All applications would be available for public inspection from the time they are received by the Chief Electoral Officer until one year after general voting day for the referendum.

3. How groups would get approved

The approval process described below provides for a maximum of five groups on each side of the debate. Each group would have its own financial agent. Individuals and organizations that apply to be registered as a group are referred to as “applicants”. Because there may be a large number of applicants, the process provides the opportunity for them to join together and propose common financial agents as a way of increasing the likelihood that they will be registered and receive a portion of the funding. [See **Appendix 1** for a diagram of how the funding process would operate.]

Once the time period for submitting applications has closed, the Chief Electoral Officer would designate financial agents and register groups based on the following process:

Step 1

Applications would be divided into “proponents” and “opponents” and reviewed for completeness. Incomplete applications would not be processed.

Step 2

If a financial agent is proposed by 20 percent or more of the total number of proponent or opponent applicants (i.e. those on the same side of the debate), then that financial agent would be so designated by the Chief Electoral Officer and the applicant(s) to be represented by that financial agent would be registered together as a single group.

A financial agent who has not been proposed by 20 percent or more of the proponent or opponent applicants would not be designated and the applicant(s) that proposed that financial agent would not be registered. Step 3 would apply.

Step 3

Any applicants that have not been registered during Step 2 would be notified by the CEO. They would be provided with contact information for the other proponent or opponent applicants (i.e. those applicants who are on the same side of the debate) and their proposed financial agents, as well as the contact information for any financial agents and groups that have been designated and registered under Step 2 above.

Step 4

Applicants not registered would then have a second opportunity to propose a financial agent. Applicants may:

- re-submit their initial choice;
- propose the same financial agent as another applicant, even if that financial agent has not yet been designated; or
- propose a financial agent that has been designated and registered under Step 2 (effectively, this would mean joining a group that has been registered).

As with the initial applications, this step would require a signed statement of consent by the proposed financial agent that he or she agrees to act as the agent for the applicant and is not disqualified from doing so.

This step of the process is intended to permit applicants to agree on common financial agents in order to ensure that they can be registered and receive a portion of the funding. Applicants would have 30 days to indicate their choice to the CEO.

Step 5

After the time period for the second round of applications has ended, the Chief Electoral Officer would designate remaining financial agents, if any. As with Step 2 above, any financial agent proposed by 20 per cent or more of the total number of the proponent or opponent applicants would be designated by the CEO and the applicant(s) to be represented by that financial agent would be registered together as a single group. This would complete the process, unless no groups have been registered because no financial agent has been proposed by 20 per cent or more of the total number of applicants on that side of the debate.

Step 6 (if necessary)

If, at the end of the above process, no financial agent for the proponent or opponent applicants has been proposed by at least 20 per cent of the total applicants for that side of the debate, the CEO would **randomly select** five financial agents from among those proposed by applicants, and those financial agents would be designated on that basis and represent the applicant(s) that have proposed them.

The result of this process would be:

- **There could be up to five registered groups on either side of the debate, with each group represented by a single financial agent; and**
- **proponent and opponent groups may be composed of one or more individuals or organizations that originally applied.**

Step 7

The CEO would advise all applicants of their final status. Only groups that have been registered as a result of this process would receive funding.

Applicants that are unsuccessful in receiving public funding would still be eligible to register with Elections BC as independent referendum advertisers and raise contributions from other sources to participate in the referendum debate.

4. How funds would be disbursed

Equal funding of \$500,000 would be provided through the CEO to each side of the debate, that is, all proponent groups together would receive a total of \$500,000, and all opponent groups together would receive the same amount.

Funding would be disbursed equally to each group through its financial agent. If a registered group includes more than one original applicant, the applicants would decide how the funds would be allocated within the group.

5. Responsibilities of Financial Agents

Funds will be disbursed by the CEO to financial agents. The financial agent will be the principal financial officer for the group and will be responsible for ensuring the proper use of the funds. This would include the following responsibilities:

- ensuring that all income and expenses of the group the agent is representing are properly recorded to comply with the reporting requirements of the regulations;
- filing all necessary financing reports with Elections BC within specified time frames, indicating all contributions received by the group (including private contributions from other sources) and all expenditures made in relation to the group's activities;
- ensuring that all money received by or on behalf of the group is deposited in an account in a savings institution and that all expenditures of the group are paid from that account;
- ensuring that all records required to be kept by the group are maintained in British Columbia;
- ensuring that all financial records and receipts of the group are retained for the period of time set out in the regulations;
- making every reasonable effort to ensure that every expenditure greater than \$25 that is incurred by the group is documented by a statement setting out the particulars of the expenditure;
- repaying to the Chief Electoral Officer within a specified time period any funds that are not used, or are misused.

6. How funds must be used

The Act requires that the funds be used for the purpose of opposing or supporting the Single Transferable Vote electoral system.

It is proposed that public funds may be used only for the following activities:

- producing or sponsoring the production of materials such as brochures, posters, buttons, etc.;
- creating or sponsoring advertisements in print or electronic media;
- holding events such as rallies, debates, or town hall meetings;
- paying for administrative expenses incurred in relation to any of the above activities, other than remuneration of staff or capital expenses.

The following activities would be expressly prohibited:

- election advertising as defined in the *Election Act*;
- political contributions;
- contributions to other individuals or organizations;
- capital expenses or staff remuneration;
- activities unrelated to the support or opposition of STV in the context of the 2009 referendum (e.g. promoting or opposing the use of STV for local government or federal elections).

The regulations would define the “referendum campaign period” to begin at the same time as the first disbursement of funds to groups is made (see “**Sample Timeline**” below). During this defined period, groups would be responsible for tracking the expenditures of the funds they have received.

7. Obtaining other contributions

Registered groups also would be able to receive contributions from other sources. The financial agent would be responsible for identifying, accounting for and reporting on those funds separately from funds received from the Chief Electoral Officer. Funding from other sources could be used only for the same activities as the public funding.

8. Repayment of funds

Any public funds that a proponent or opponent group does not use during the referendum campaign must be repaid to government through the Chief Electoral Officer within 90 days of general voting day. Funds that are misused (for example, spending for an activity that is not permitted under the Act or regulations) may be required by the CEO to be repaid at any time.

In addition, groups would be required to pay to government through the Chief Electoral Officer any unused funds that were obtained from other contributions.

Public funds that are required to be repaid that are not repaid would become a debt due to government for which the financial agent and/or the principal members of the group would be responsible.

If a financial agent is required to repay public funding to the Chief Electoral Officer during the referendum campaign period, the Chief Electoral Officer would redistribute those funds to other financial agents on that side of the debate.

9. Penalties

The *Electoral Reform Referendum 2009 Act* provides for significant penalties if the funds provided are misused. Under the Act, a person who contravenes a provision that relates to the use or repayment of the funds may be subject to a fine of up to \$50,000 or to imprisonment for up to two years or both.

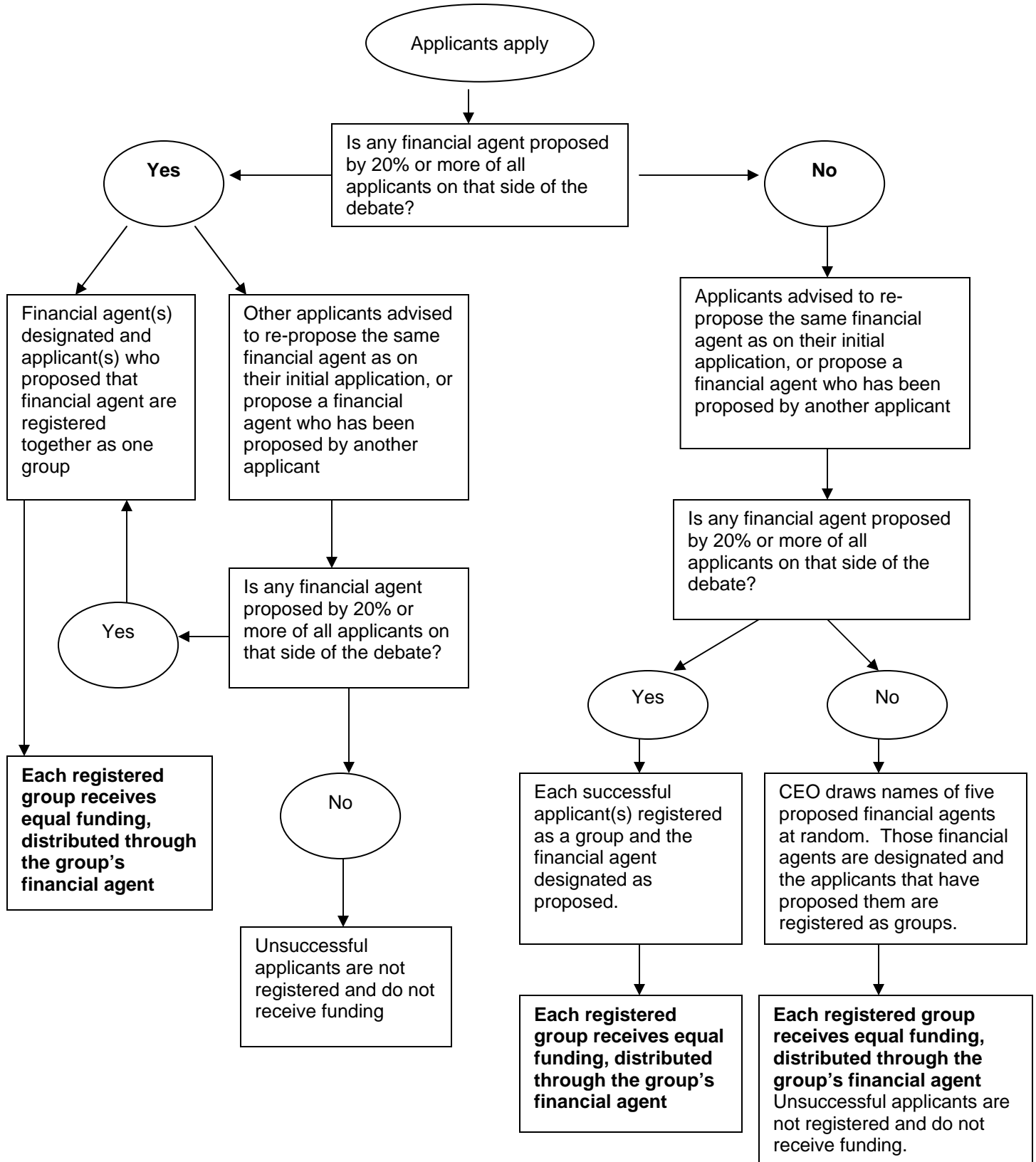
10. Sample Timeline

Event	Deadline
Public notice by Chief Electoral Officer (CEO) inviting applications	No later than October 15, 2008
Deadline for applications	November 14, 2008
Review of applications by CEO and notification of: <ul style="list-style-type: none"> • Designated financial agents and registered groups, and/or • Groups/financial agents not approved, and the relevant information for these groups to submit a statement nominating either the individual previously nominated as financial agent, or a different individual 	No later than December 8, 2008
Signed statements, if any, with re-nominated or newly nominated financial agents returned to CEO	January 7, 2009
Public notice from CEO indicating the registered groups and their financial agents	January 21, 2009
Initial disbursement of funds to registered groups* and beginning of official “referendum campaign period”	January 30, 2009 (For funds allocated in the 2008/09 fiscal year)
Second disbursement of funds to registered groups*	April 1, 2009 (Funds allocated for the 2009/10 fiscal year)
Referendum financing reports from financial agents due	No later than 90 days after general voting day

** Note: the provincial budget for the fiscal year 2008/09 has allocated \$870,000 for proponent and opponent group funding, i.e. \$435,000 to each side. The remaining \$130,000 would be disbursed at the beginning of the 2009/10 fiscal year.*

APPENDIX 1

The following diagram illustrates the proposed funding application process (the same process would apply to each side of the debate).



APPENDIX 2 – FREQUENTLY ASKED QUESTIONS

What is the referendum about?

The referendum asks British Columbians to choose which electoral system they would prefer for electing members of the provincial Legislative Assembly: the current First Past the Post system or the Single Transferable Vote system proposed by the Citizens' Assembly on Electoral Reform.

Who is the Chief Electoral Officer?

The Chief Electoral Officer (CEO) is an independent officer of the Legislature responsible for the non-partisan administration of provincial elections, referenda, recall and initiative. The CEO is appointed under the *Election Act*.

Why is this funding being made available?

Government made a commitment in September 2005 to provide public funding to registered groups to enhance the public debate on the referendum.

Can a financial agent represent more than one group?

A financial agent can be proposed by more than one applicant, but once registered, those applicants would be considered to be one group for which the financial agent would be responsible.

Could a financial agent become responsible for a group that he or she didn't want to represent?

No. A person must agree, in writing, to be the financial agent for an individual or organization that is applying for funding. The person becomes the financial agent for that individual or organization if they are registered by the Chief Electoral Officer.

What's the benefit for applicants to propose a common financial agent?

By proposing the same financial agent, applicants increase the possibility that they will qualify for funding. If a number of applicants all propose different financial agents, then they would not be sure of receiving funding. If, at the end of the process, there are more than five different financial agents proposed by applicants on the same side of the debate, and the applicants cannot agree to combine under fewer financial agents, then the Chief Electoral Officer would draw five financial agents' names at random and the funding would be distributed among those five financial agents.

Would there be the same number of groups on both sides of the debate?

Not necessarily. There would be a maximum of five proponent groups and five opponent groups, but depending on the number of applicants, there may be fewer than five on each side of the debate. However, both sides of the debate will receive the same amount of total funding (\$500,000).

Do all groups get the same amount of money?

Financial agents on each side of the debate would receive the same funding. For example, if there are five financial agents on one side, each financial agent and the group he or she represents would receive \$100,000 of the \$500,000 available; and if there are three financial agents on the other side, each would receive \$166,666 of the \$500,000 available.