



September 22, 2011

TO: Chief Administrative Officers and Chief Election Officers

RE: Volunteer Eligibility for Office Regulation

Purpose: The purpose of this circular is to announce that regulations have been passed to clarify the issue of a local government volunteer who wants to be a candidate for local government office.

Background:

In 2008, there was a court case that decided a volunteer fire fighter who was a candidate for office, could be considered to be an employee and therefore was ineligible to be a candidate unless they took a leave of absence from their volunteer position. Some of the issues taken into consideration were the amount of monetary compensation, work hours, the use local government equipment and WorkSafe BC coverage.

In 2010, the Local Government Elections Task Force recommended that this issue be clarified given the wide variety of arrangements that exist for volunteers. In particular, it was recommended that volunteers who receive no direct monetary compensation should not be considered to be “employees” for the purposes of determining eligibility to run for, and hold, elected office while continuing to volunteer.

Section 67 of the *Local Government Act* enables a regulation to be enacted that excepts a class of persons from the definition of “employee.” Therefore, in order to clarify this matter, two regulations were enacted by the Province on September 16, 2011 – one that applies to municipalities, regional districts and the Islands Trust - and one that applies to the City of Vancouver. A copy of the regulation that applies to all local governments is attached.

How is volunteer defined?

A volunteer is defined as a person who receives no monetary compensation for the volunteer services provided to a local government. For clarity, monetary compensation does not include the following:

- Reasonable and necessary expenses that are incurred and reimbursed
- Insurance coverage, worker’s compensation coverage, personal clothing, equipment or training directly related to the performance of the volunteer services
- Gifts in recognition of long service or exemplary service

Does the regulation only apply to candidates for local government office?

Volunteers are required to maintain their eligibility to hold office throughout their term –in this case, by remaining unpaid volunteers throughout their term in office.

What if a volunteer is paid an hourly wage or receives an honorarium for their volunteer services?

If a volunteer receives monetary compensation for the volunteer services that they provide to a local government, then they must take a leave of absence from the position in order to run for office and resign if elected. In other words, section 67 [disqualification of local government employees] of the *Local Government Act* applies to the volunteer.

What if a volunteer receives monetary compensation as a volunteer in one jurisdiction and wants to run for office in another jurisdiction?

A paid municipal volunteer must take a leave of absence and resign in order to run for and hold office in the regional district where the municipality is a member. A paid regional district volunteer must take a leave of absence and resign in order to run for and hold office in a member municipality.

Does this regulation apply to all local government volunteers?

Yes. This regulation applies to all local government volunteers, not just volunteer fire fighters.

Does the regulation apply to other jurisdictions?

No. This regulation does not apply to volunteers in a related organization that is beyond a local government's jurisdiction such as improvement districts or non-profit associations. For clarity, if a local government provides an operating grant to a volunteer organization that is operated under the *Societies Act* and a volunteer provides services to the Society, the regulation does not apply to that volunteer.

Does the regulation apply to the 2011 general local government election?

Yes. The regulation is effective immediately and will apply to the 2011 general local government election.

Where can I get more information?

If you require more information, please contact the advisory officer for your local government at the Ministry of Community, Sport and Cultural Development at:

http://www.cscd.gov.bc.ca/lgd/gov_structure/advisory_services_index.htm