



NCN Election Code UPDATE

July 2010



June 14 General Assembly Approves Four Election Code Amendments in Time for 2010 Election

Based on the June 14 meeting results, the Election Code has been revised and new amendments are in effect for the upcoming August election for Chief and Council.

NCN Chief and Council held a General Assembly of NCN Members at 1:00 p.m. Monday, June 14 at Duncan Wood Memorial Hall to review and vote on 25 proposed amendments to NCN's 1998 Election Code.

More than 100 Members attended the six-hour meeting to vote on the amendments to the Election Code.

Members declined a secret ballot vote and used the traditional voting method of moving to the yes or no side of the hall for counting and doors were closed at the time of voting. Members decided to approve only four amendments and deferred other amendments and the future of the Election Code amendments process until after the 2010 election. Based on the meeting results, the Election Code has been revised and the new amendments are in effect for the upcoming August election for Chief and Council.

Highlights of the Approved Amendments

With the four approved amendments, important changes have been incorporated into the Election Code:

1. Residency requirements for running for office have been removed. All NCN Members, regardless of where they live can not only vote, but they can now also run for office.

2. NCN Members who cannot get RCMP documentation in time for the election confirming they have not been convicted of an indictable offence can swear a statutory declaration.

3. Related to the statutory declaration, candidates must also provide a signed acknowledgement that they understand that if they get elected and the declaration proves to be false, they will not only be removed from office but they may also be charged with a criminal offence.

4. The Appeal Committee must make its decision within 30 days unless there are extenuating circumstances.

Election Code Amendment Vote Came After Extensive Review Process

Amendments to the NCN Election Code approved at the June 14 General Assembly came after an extensive review process that began in 2004.

The process was facilitated by NCN's Chief Executive Officer Theresa Yetman under the direction of NCN Chief and Council.

Between April and June 2004 input was gathered from NCN Members, on- and off-reserve, through in-person and online surveys, workshops and talk radio. Dr. Freeda Hart and Theresa Yetman compiled



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and analyzed the results and the CEO then worked with legal counsel to prepare draft amendments based on the input received.

For a variety of reasons the amendments were not passed before the 2006 election and remained unchanged.

The 2006 Election and Gull Bay Court Decision Identified Need for Additional Amendments

Reports were prepared based on the experience of the last election that identified the need for further changes (for example providing a lawyer to assist the Electoral Officer and the need for an independent observer to help ensure a fair and impartial election).

More importantly, since the amendment process began, significant legal decisions related to Gull Bay First Nation in northern Ontario had occurred. These decisions struck down section 75(1) of the Indian Act that required Chief and Councillors to be Members living on reserve because it violated section 15 of the Canadian Charter of Rights and Freedoms.

Some Members asked why this should be necessary if NCN is self-governed and it was explained that all laws, including NCN's, must comply with the charter which is part of the Canadian Constitution.

Even though NCN does not hold elections under the Indian Act, it was decided that to avoid future court challenges, NCN's own Election Code should reflect the Gull Bay decision and remove residency requirements.

The urgency to remove residency requirements provided the opportunity to incorporate other amendments from

the earlier review process that had not been made.

Group Challenged Proposed Amendments

A group issued a newsletter June 10, just before the June 14 General Assembly taking issue with many of the proposed amendments, suggesting the amendments were "sweeping changes" and a "wholesale revamping of the way we conduct our elections". In fact, even with the proposed changes most of the Election Code remained intact.

The newsletter suggested the process was solely a self-interested NCN Chief and Council initiative, however, Chief and Council were basically following through with the amendment process started in 2004 that contained considerable Member input along with the addition of other amendments based on experience from the 2006 election.

The group also called for a Transitional Funding proposal to be eliminated altogether.

The group agreed with the proposed amendment to the code that would eliminate the residency requirement for holding elected office but wanted all other proposed amendments deferred pending further public consultation.

Transition Allowance Created Considerable Discussion

One proposed amendment that generated considerable discussion at the June 14 General Assembly related to the introduction of a transition allowance for future Chiefs and Councillors who are not re-elected.

Transition allowances are similar

to severance payouts for departing employees and are not unusual in most levels of governments. The purpose is to give former council members temporary support (three months for up to two terms and six months for two or more terms) while they looked for work after having served in public office.

Following the 2006 election, payments were made to members of council who were defeated or chose not to run again. In the absence of a policy, the incoming Chief and Council in consultation with NCN Members at a General Assembly had to decide after the fact what should be done for the people they defeated.

The proposed amendment would only have applied to members of council elected in 2010 and would not apply to the current council that is already covered by a policy approved at a General Assembly in 2006. It was intended to provide transparency for future councils so everyone would know the rules going in.

The Transition Allowance amendment was deferred and not voted on.

Copies of the current Election Code with 2010 Amendments and other Election Code Review information is available online at www.ncncree.com or on request at the NCN Government office.
