

Vaughn Palmer: Privacy commissioner clashes with B.C. political parties on voters list

Legislation: Worries include misuse, voter profiling, information sharing, fundraising and inappropriate communication

BY VAUGHN PALMER, VANCOUVER SUN COLUMNIST APRIL 20, 2015



B.C. Privacy Commissioner Elizabeth Denham said she was 'deeply concerned' about the voters list legislation.

Photograph by: DARREN STONE, VICTORIA TIMES COLONIST

VICTORIA — An unprecedented measure now before the legislature would force Elections B.C. to supply political parties with a list of everyone who voted in elections, making it easier for the parties to contact — and bother — voters and non-voters alike.

"The chief electoral officer must provide to a registered political party a list of voters indicating who voted in the last general election and in a byelection since the last general election," according to the official description of the provision in the proposed Election Amendment Act.

If enacted, the legislation itself would require that the list be provided to any and all registered provincial political parties "on request and on payment of the reasonable cost of reproduction."

The same requirement would apply to who voted in any byelection. None are scheduled currently, though at least one will be necessitated by the pending resignation of New Democratic Party MLA Jenny Kwan to run in the next federal election.

Both obligations are set out in the act, Bill 20, on the agenda for the current legislative session. Though drafted and tabled by the government, the disclosure provision was (as I noted last week) urged by representatives of all four major political parties — Liberals, NDP, Greens and Conservatives — in attendance at an election advisory committee last year.

But the proposed change has drawn a major blast from privacy watchdog Elizabeth Denham.

"The purpose of this disclosure is for political parties to receive personal information in a comprehensive and accessible format after voting day in order to perform analytics and other uses," she wrote in an April 13 missive to the government and the official Opposition and posted on her website.

"I am deeply concerned that the proposed amendments allow for other uses and expand the already broad ability of political parties to collect information about voter participation."

Moreover the measure was unprecedented, here and elsewhere.

"This disclosure was not recommended by the chief electoral officer and the purpose of the disclosure is not directly tied to getting out the vote. It is also not a disclosure allowed by most other provinces in Canada," she wrote.

"It would also certainly exceed what British Columbians anticipate when they provide their name to Elections B.C. given I do not believe there has been any public consultation on this expanded use of the voters list."

She urged the government to withdraw the bill or eliminate the offending provision. Failing that, she cited the need to place "clear limits on the use and disclosure of this personal information by political parties" and pledged to work with the chief electoral officer to draft the appropriate regulatory protection.

To date, the Liberals have minimized the privacy commissioner's concerns.

"The amendment to provide voter turnout information to political parties after an election will consolidate information for political parties that their candidates already may collect through representatives at voting locations," said a statement released by the ministry of the attorney-general in response to the Denham letter.

"This information could only be used for an electoral purpose, and misuse of such information would be an offence. Government believes that there are sufficient safeguards in the Election Act and does not intend to withdraw the amendment."

Expanding on that later in the week, Attorney General Suzanne Anton seized on Denham's fallback position, namely her willingness to work with chief electoral officer Keith Archer on regulatory protections against abuse of the information.

There matters stood at the beginning of this week, with the legislation not yet called for debate and none of the major parties indicating any need for the text to be reworked to address Denham's concerns.

But I am indebted to a representative of one of the parties for conceding, albeit privately, that this measure, if enacted, could readily backfire. Though the parties want information on who voted as a tool to improve voter turnout, he observed that it might just as easily depress voter turnout.

His specific concern echoed the one identified by Denham:

"If this amendment were to proceed, Elections B.C. would be disclosing personal information that is likely to be linked with other information in political party databases and elsewhere. This linking, and the associated analytics, can be used for creating voter profiles, targeting voters, fundraising, sharing data across systems for secondary purposes, collecting non-consensual information, inappropriate communication from parties, and other intrusive uses."

The public, as the privacy commissioner noted, does not expect the voters list will be bent to such purposes. Nor is the non-voting public likely to be persuaded by get-out-the-vote approaches made on the strength of such information.

Elections B.C. has conducted two post-electoral surveys into why folks did not get out to vote. One of the main reasons was distraction: they meant to vote but ended up too busy to do so on voting day. Another was disengagement: they were disenchanted with the process, the politicians, the parties or all three.

Neither group is likely to appreciate being contacted or cajoled by political parties between elections. Indeed, the mere thought of it happening might alienate voters and non-voters alike, further widening the gulf between the parties and the electorate.

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