

**BILL C-55: AN ACT TO AMEND THE CANADA  
ELECTIONS ACT (EXPANDED VOTING OPPORTUNITIES)  
AND TO MAKE A CONSEQUENTIAL AMENDMENT  
TO THE REFERENDUM ACT**

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## LEGISLATIVE HISTORY OF BILL C-55

### HOUSE OF COMMONS

Bill Stage	Date
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First Reading: 9 May 2007

Second Reading: 1 June 2007

Committee Report:

Report Stage:

Third Reading:

### SENATE

Bill Stage	Date
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First Reading:

Second Reading:

Committee Report:

Report Stage:

Third Reading:

Royal Assent:

Statutes of Canada

N.B. Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

Legislative history by Michel Bédard

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BILL C-55: AN ACT TO AMEND THE CANADA ELECTIONS ACT  
(EXPANDED VOTING OPPORTUNITIES) AND TO MAKE A  
CONSEQUENTIAL AMENDMENT TO THE REFERENDUM ACT\*

## BACKGROUND

Bill C-55, An Act to amend the Canada Elections Act (expanded voting opportunities) and to make a consequential amendment to the Referendum Act, was introduced in the House of Commons by the Hon. Peter Van Loan, PC, MP, Leader of the Government in the House of Commons and Minister for Democratic Reform, and received first reading on 9 May 2007.

Bill C-55 makes various amendments to the *Canada Elections Act*<sup>(1)</sup> (“the Act”) and one consequential change to the *Referendum Act*.<sup>(2)</sup> It increases from three to five the number of advance polling days and increases the number of polling stations open on the last day of advance polling.

As its title suggests, the objective of Bill C-55 is to increase voter participation.<sup>(3)</sup> It builds upon the increasing use of advance polling by Canadian voters. Since 1997, the percentage of voters who cast their vote in advance polls increased from 5.4% in 1997 to 6% in 2000, 9.2% in 2004 and 10.5% in 2006.<sup>(4)</sup> Bill C-55 is based on the premise that additional

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\* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both Houses of Parliament, receive Royal Assent, and come into force.

(1) *Canada Elections Act*, S.C. 2000, c. 9.

(2) *Referendum Act*, S.C. 1992, c. 30.

(3) Office of the Leader of the Government in the House of Commons and Minister for Democratic Reform, *Canada's New Government Introduces the Expanded Voting Opportunities Bill*, News release, Ottawa, 9 May 2007, <http://www.democraticreform.gc.ca/eng/media.asp?id=1379> (accessed 25 July 2007).

(4) Elections Canada, *The Electoral System of Canada*, 2<sup>nd</sup> ed., Ottawa, 2007, p. 31, <http://www.elections.ca/intro.asp?section=gen&document=index&lang=e>.

advance polling days will increase voter turnout, which has been declining since 1988 (see Table 1). During his appearance before the Standing Committee on Procedure and House Affairs, the sponsor of the bill enumerated a number of studies on which Bill C-55 is premised.

**Table 1**  
**Canadian Voter Turnout for Recent Federal Elections**

<b>Date of the Election</b>	<b>Voter Turnout (%)</b>
21 November 1988	75.3
25 October 1993	69.7
2 June 1992	67.0
27 November 2000	64.1
28 June 2004	60.9
23 January 2006	64.7

Source: Elections Canada.<sup>(5)</sup>

## DESCRIPTION AND ANALYSIS

Bill C-55 adds two advance polling days to those already provided for under the Act: the Sunday that is the 8<sup>th</sup> day before polling day, and the Sunday just before polling day. As a result there will be four consecutive advance polling days on the 10<sup>th</sup>, 9<sup>th</sup>, 8<sup>th</sup>, and 7<sup>th</sup> days before polling day – Friday to Monday the week before the election – as well as a special advance polling day on the Sunday just before polling day. All polling stations that are to be open on polling day will also be open on the last day of advance polling.

### A. Holding of Advance Polls (Clauses 1, 5 and 6)

Sections 171 and 172 of the Act, which provide rules on the conduct of advance polls and with regard to the notice of advance polling, will be replaced by new sections 167.1 and 167.2 (Clauses 5 and 6).<sup>(6)</sup> These two provisions substantially mirror former sections 171

(5) Elections Canada, *The Electoral System of Canada*, p. 57.

(6) This amendment entails a consequential amendment to the definition of “spoiled” in section 2(1) of the Act (Clause 1).

and 172, but are placed at the beginning of Part 10, Advance Polling, since they provide general rules that apply to the first four days of advance polling and to the last day of advance polling, which are treated distinctively under the Act.<sup>(7)</sup> New sections 167.1 and 167.2 differ slightly from former sections 171 and 172 in that they refer to the two new additional advance polling days. The notice of advance poll has also been slightly modified to inform electors of polling divisions for the first four days of advance polling and of the polling divisions open for the last day of advance polling (section 167.2).

#### B. First Four Days of Advance Polling (Clauses 5 and 7)

Sections 168 to 176 will now be preceded by the heading “First Four Days of Advance Polling” since the rules they provide for apply only to the first four days of advance polling (Clause 5).

Consequential amendments are made to sections 175(1) (examining and sealing ballot box), 175(2) (close of advance poll), 175(4) (reopening of advance poll) and 175(6) (candidates may check seals on ballot boxes) to specify that the rules they provide for pertain exclusively to the first four days of advance polling (Clause 7).<sup>(8)</sup>

#### C. Last Day of Advance Polling (Clauses 4 and 8)

Clause 8 brings in an entire new subpart to Part 10, Advance Polling, entitled “Last Day of Advance Polling” and adds sections 176.1 to 176.6 to the Act. New section 176.1 provides that all polling stations open on polling day will also be open on the last day of advance polling. These polling stations will be open from noon to 8:00 p.m. (see section 176.6). Sections 176.2 to 176.6 repeat the substance, with the necessary adaptations, of the rules that already apply to the first four days of advance polling in respect of:

- registration at an advance polling station (section 176.2, see section 169);

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(7) The definition of “advance polling station” in section 2(1) is also amended and refers generally to Part 10, Advance Polling, in order to include the advance polling stations for the first four days of advance polling as well as the advance polling stations for the last day of advance polling (Clause 1).

(8) The French versions of sections 175(1), (2) and (4) are also amended to be consistent with the English versions and thus reflect that the candidate or his or her representative may be at the polling station (Clause 7).

- the list of electors being deemed modified when a registration certificate is issued (section 176.3, see section 170);
- who may vote at advance polls (section 176.4, see section 173);
- duties of the deputy returning officer (section 176.5, see section 174);
- examination and sealing of ballot boxes (section 176.6, see section 175).

However, these provisions are adapted to take into account that when the polling stations on the last advance polling day are reopened, they will be reopened as polling stations on polling day. Clause 4 makes consequential changes to section 140 resulting from the fact that ballot boxes used on polling day will have been used on the last day of advance polling.

#### D. Poll Workers (Clause 2)

Clause 2 amends sections 32(*b*) and (*c*) of the Act in respect of poll workers appointed to advance polling stations. Amended section 32 provides for the appointment, by the deputy returning officer, of a set of poll workers for each advance polling station for the first four advance polling days and of another set of poll workers for the last day of advance polling and polling day.

#### E. Official List of Electors (Clauses 3 and 8)

Prior to Bill C-55, the official list of electors for each polling division had to be prepared on the 3<sup>rd</sup> day before polling day. Amended section 106 changes this timeline by providing that the list shall be prepared as soon as possible after the 7<sup>th</sup> day before polling day (just after the first four advance polling days) and no later than the 3<sup>rd</sup> day before polling day (Clause 3). The official list of electors is used on the last advance polling day and on polling day (Clause 8, section 176.2).

#### F. Counting of Votes on Polling Day (Clause 9)

Clause 9 amends section 289(1) of the Act by replacing the reference to section 172(*a*)(iii), which is repealed by Clause 6, with a reference to new section 167.2(*a*)(iv), which is added by Clause 5, with regard to the place where the votes cast on advance polling days are counted.

#### G. Offences (Clauses 10 and 12)

Clause 10 adds sections 490(*d*), (*e*) and (*f*) to the Act, creating three new offences that replicate, for the last advance polling day, the offences pertaining to the first four advance polling days with regard to a returning officer's failure to permit a person to vote (section 176.5(1)), failure to record a vote (section 176.5(2)) or improper handling of ballot boxes with the intention of causing the reception of a vote that should not have been cast or the non-reception of vote that should have been cast (section 176.6). In addition, Clause 12(8) adds sections 489(*f*) and (*g*), instituting, for the last day of advance polling, offences already provided for the first four days of advance polling for every person who vouches for more than one elector or who, being a "vouchee," acts as a voucher (sections 176.2(5) and (6)).<sup>(9)</sup>

#### H. Consequential Amendment to the *Referendum Act* (Clause 11)

Clause 11 replaces the reference to section 171 in Schedule II of the *Referendum Act* by a reference to section 167.1. Schedule II lists, in accordance with subsection 7(2) of the *Referendum Act*, the provisions of the Act that do not apply to a referendum. This consequential amendment results from the amendments on the conduct of advance polls (Clauses 5 and 6, discussed above).

#### I. Coordinating Amendments and Coming Into Force (Clauses 12 and 13)

Clause 12 provides for coordinating amendments ensuring that the proposed changes to the Act intended by Bills C-31 and C-55 are reflected in the Act regardless of which bill receives Royal Assent first. Clause 12 applies only if Bill C-31, An Act to amend the Canada Elections Act and the Public Service Employment Act, receives Royal Assent and comes into force before Bill C-55.

After Bill C-55 was introduced in the House of Commons, Bill C-31 received Royal Assent on 22 June 2007. Its provisions have or will come into force in stages. All but one of the sections for which there is a coordinating amendment provided for in Clause 12 will come

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(9) The "voucher" is an elector whose name is on the list of electors for the same polling division of the "vouchee." The voucher asserts under the oath the identity of the vouchee.



into force two months after Royal Assent<sup>(10)</sup> and will be already in force when the House of Commons resumes debates on Bill C-55, as expected, in the fall of 2007. Section 162(i.2), however, which imposes on a poll clerk the duty to give each candidate's representative the identity of every individual who voted after the close of advance polling stations, comes into force at the latest of the following dates: six months after Bill C-31 received Royal Assent; or the date on which the Chief Electoral Officer publishes a notice in the *Canada Gazette* to the effect that all the necessary preparations to bring this provision into operation have been made. In theory, section 162(i.2) could thus come into force after the provisions of Bill C-55 come into force. Should this happen, section 176.6(5) stipulates that poll clerks shall provide the identity of electors who voted at the close of advance polling stations (Clause 8). Section 176.6(5) will be repealed on the coming into force of section 162(i.2) (Clause 12(2)).

The other provisions of Bill C-55 come into force three months after the bill receives Royal Assent, unless the Chief Electoral Officer publishes in the *Canada Gazette* a notice to the effect that the necessary preparations for the bringing into operation of the bill have been completed, in which case they come into force on the day said notice is published (Clause 13).

## COMMENTARY

Bill C-55 has received little media attention since its introduction in the House of Commons. Most of its coverage merely restates the intent of the bill and paraphrases its main provisions. An editorial comment from *The Globe and Mail* refers to it as being unexpected and calls for the Members of Parliament to pay rigorous attention to its 13 clauses and to endorse the bill unless they find that it contains significant flaws.<sup>(11)</sup>

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(10) *An Act to amend the Canada Elections Act and the Public Service Employment Act*, S.C. 2007, c. 21, section 42.

(11) *The Globe and Mail*, 14 May 2007, p. A16.