

THE FIX IS IN? FIXED ELECTION LEGISLATION

For decades, the date of a provincial election was never quite certain. When a premier felt the time was right, they would approach the Lieutenant Governor and ask for an election. While there was an expectation of an election about once every four years, the only limit that the premier faced was the constitution: a provincial election must take place at least once every five years.

Sometimes, premiers called early elections if political circumstances were in their favour. Ross Thatcher (1967) and Allan Blakeney (1978) called elections 3.5 years into their terms. Other times, premiers who appeared to be headed for defeat hung on to power. J.T.M. Anderson (1934) and Grant Devine (1991) called elections after five-year terms.

This discretion led to constant speculation. The public, the media, and the opposition parties were trapped in a guessing game: when would the election be called? Meanwhile, Elections Saskatchewan—the independent agency that runs provincial elections—faced planning difficulties, especially with regard to arranging polling locations and hiring staff.

To help end all this, in 2007 fixed election date legislation was put into place. The law originally scheduled provincial elections for the first Monday of November, every four years. Changes to the law now peg provincial elections for the last Monday of October, every four years.

AVOIDING CONFLICTS

Saskatchewan's fixed election law prevents provincial elections from overlapping with federal elections. If a federal election is scheduled for the same time as a provincial election, the provincial election will be moved to the following spring.

However, conflicts still exist. The current provincial election cycle puts our provincial vote in a perpetual conflict with two other major elections.

First, municipal and school board elections are held at the beginning of November, every four years. This means that only two weeks after a provincial election, voters must again go to the polls to elect urban and rural municipal councils and school boards.

Second, the American presidential elections take place at the beginning of November, every four years. Of course, we do not vote in American elections. Even so, the American presidential race is the most-watched election campaign in the world, taking up a lot of our political attention.

IS IT ALL MEANINGLESS?

Fixed election legislation does not supersede constitutional rules. The fixed election law states that nothing in it “alters or abridges the power of the Crown to prorogue or dissolve the Legislative Assembly.”

This means, for example, that if the government falls in a vote of no confidence before the fixed election date, the legislation will not halt an election from taking place.

This also means that the premier is still free to call an election whenever they please. In fact, Premier Scott Moe openly considered calling an early election in April 2020, pointing out that he still retained that power even though the legislation said the 2020 election should be in October. Courts have affirmed that fixed election legislation does not restrict an early election call.

In fact, fixed election legislation cannot even prevent a premier from holding onto power past the fixed election date. The government could remain in office so long as the legislature passed a new law that voided the “fixed” election date. The only limit the government would face is the constitution, which requires a provincial election at least once every five years.



USEFUL OR NOT?

Fixed election legislation has not changed the basic foundations of how elections are triggered in our system of government. But it does provide some general guidance for the scheduling of elections. This creates some basic order which helps everyone plan for elections, which may be the greatest merit of the legislation.

Discuss

1. Should Saskatchewan's fixed election legislation ensure that provincial and municipal elections are scheduled far apart? Why or why not?
2. Should Saskatchewan avoid scheduling elections around the same time as American presidential elections? Why or why not?
3. Newfoundland and Labrador has a unique clause in their fixed election legislation. If a premier leaves office in the middle of their term, an election must take place within a year. Is this a good idea? Why or why not?

