



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

Memorandum

Date: September 12, 2018 Amended November 9, 2018, following member consultation. Amendments noted in red text on page 2 and 5.

To: AIBC Council

From: Bylaw Review Committee (the “BRC”)
Brian Sim Architect AIBC, Chair and Thomas M. Lutes, General Counsel

RE: **Analysis and Recommendations:**
AIBC Bylaws: Council and Institute Governance

1.0 Background

BRC Workplan

- 1.1 The suite of bylaws related to “Council and Institute Governance” is the second subject area planned by the BRC in its workplan for review and member consideration in 2018.
- 1.2 These bylaws relate to AIBC Bylaw headings “Seal”; “Officers and Council”; “Boards, Task Forces and Committees”; “Remuneration and Expenses”; and “Nominations and Elections”. Each of these headings and any bylaw amendments proposed by the BRC are addressed in separate sections below.

Summary of Proposed Amendments and Council Review History

- 1.3 Most of the proposed amendments to these bylaws are minor in nature and focus on consistency, clarity, or reduction of unnecessary bylaws. One new bylaw is proposed to confirm ‘operational committee’ authority. The most substantive amendments relate to improvements to, and simplification of, council election bylaws. This includes:
 - changing the council election nomination deadline from 30 to 60 days from the annual meeting;
 - repealing unnecessary detail related to paper ballots; and
 - establishing a single bylaw to authorize council rules for election procedures, whether the vote is by mail ballot or electronically.
- 1.4 The transfer of detailed election procedures to regulations or rules is consistent with other modern regulatory statutes and bylaws, such as the bylaws under the *Chartered Professional Accountants Act*, SBC 2015, Chapter 1. That regulator’s election bylaw reads:

Election Procedures

- 204 (1) Every CPA member in good standing is eligible to vote in an election for elected board members.
- (2) The board may make regulations specifying procedures for the election of elected board members, including procedures for nominations, voting, ballots, including electronic delivery of ballots, and deciding votes.

- 1.5 Despite the lack of substantive change to these bylaws, the BRC recommends that council and institute governance bylaws be regularly reviewed to promote best governance and administrative practice for self-regulating professional organizations. The institute should anticipate and respond to evolving public and governmental expectations in this aspect of bylaw regulation with care.
- 1.6 Presentations on these bylaws were made to AIBC Council at a planning session in February 2018, with further consultations on specific bylaw areas taking place later in 2018 with the Governance Committee, Finance Committee and Registration Board. The bylaws were also reviewed with council at its September 11, 2018 meeting. This memorandum and the attached Appendix “A” reflect these consultations and staff and BRC analysis and comparisons.

2.0 Proposed Amendments by Heading or Subject Area

Seal (Bylaws 1.0 & 2.0) Feedback received during the consultation period related to the application of the institute seal electronically has resulted in a minor amendment to proposed Bylaw 1.0. The amendment requires council authorization for electronic institute seal use. See Bylaw 1.0 on page 5.

- 2.1 The AIBC’s ‘seal’ is rarely used, but some documents require its application. Section 2(2)(b) of the *Architects Act* states that the institute “must have a common seal”. Section 42 of the *Act* states that when the registrar prepares a certificate to confirm whether a person or firm is registered or holds a certificate of practice, such document must be “under the seal of the institute”. Section 80 of the *Act* requires all “deeds of the institute” to also be sealed with the “common seal of the institute”.¹
- 2.2 The BRC recommends combining current Bylaws 1.0 and 2.0 into a single, modified bylaw that makes general reference to the *Act*’s requirements.

Officers & Council (Bylaws 3.1 – 3.8)

- 2.3 These bylaws currently address the president’s term length and ‘time away’ from that office; role of the treasurer and issuance of institute cheques; appointment of the CEO; and establishment of the code of conduct for council.
- 2.4 No change to the president’s term length has been recommended by the BRC nor suggested by council during consultation. The lengthy ‘role of the treasurer bylaw’ is seen as antiquated, and the BRC and council agreed that it serves no useful purpose.² Council policy could be developed for the treasurer position, similar to that in place for the role of the president, past-president, and registrar (see policies 2.6, 2.15 and 2.25).
- 2.5 The bylaw currently requiring that all institute cheques be signed or countersigned by specified persons was also seen as an outdated and unnecessary financial control in the modern era. Its repeal is recommended. Council policy on financial controls and expenditures are extensive and, with council’s general governance oversight role of institute finances, greater flexibility is appropriate. A minor change to Bylaw 3.8 is proposed to replace “institute” with “council” to reflect that it is the governing council, and not the institute, that establishes, maintains, and publishes the (recently-revised) code of conduct.

¹ A “deed” is a special type of enforceable obligation under common law which pre-dates contract law. It is most often used today to create binding obligations in the absence of “consideration” between parties that constitutes a component of a valid contract.

² Most self-governing regulatory bodies do not have a specific treasurer bylaw. See, for example, the bylaws of the Engineers and Geoscientists of BC; the Certified Professional Accountants of BC; and the College of Physicians and Surgeons of BC.

Boards, Task Forces and Committees (Bylaws 4.0 – 5.2)

2.6 Section 20 of the *Architects Act* states:

Committees

- 20 (1) The council may appoint committees or boards and delegate to them powers as it sees fit.
(2) The president is a member of all committees.
(3) The council may remove a member of a committee.

- 2.7 The BRC, staff and council have agreed that this section should not be considered exhaustive of the types of committee-like groups the institute establishes, nor exhaustive of the membership and processes for their administration. Amendments are proposed to this bylaw to better reflect the diversity of types of volunteer groups created by council. A new bylaw is proposed to reflect the current council policy, and long practice, of operational committees being established by the CEO to assist staff. Feedback from council and staff was consistent in relation to cementing the current policy practice, through bylaw, that each committee, board, task force, panel, working group, or other entity established by council or the CEO has a published terms of reference.
- 2.8 Two other bylaws are affected by this review. The BRC proposed a modernization of Bylaw 5.1, which currently directs the registration board to implement the internship in architecture program. The current bylaw language limits the apparent scope of that program to “employment qualifications” and suggests, unintentionally, that the program is the only path of entry for “becoming eligible for registration” as an architect. A modern, more accurate bylaw direction to the board is proposed.
- 2.9 The second bylaw, 5.2, specifically authorizes council to appoint architects to a “Joint Practice Board” under the AIBC-APEGBC Memorandum of Agreement (the “MoA”). This authority already exists under Section 20 of the *Architects Act* and under the existing and proposed amendments to Bylaw 4.0.³ Further, the language in the MoA does not require appointments to this board to be made by council, as it could operate as an ‘operational committee’ under council policy. The BRC and staff recommend that Bylaw 5.2 be repealed as unnecessary.

Remuneration and Expenses (Bylaws 6.0 & 7.0)

- 2.10 Section 18 of the *Architects Act* states that “Council members may be paid the fees for attendance and reasonable travelling and other expenses set by the bylaws”. Section 19(4) of the *Architects Act* permits council to “set the salaries or fees, if any, to be paid to an appointed person, to employees of the council or institute and to examiners appointed under this Act.”
- 2.11 Current Bylaws 6.0 and 7.0 expand this authority to include “remuneration”⁴ to council and registration board members, assistants “or others”. Current Bylaw 7.0 provides authority to council to approve payment of expenses for officers and council and board, task force, and committee members.

³ Note that this board has not been populated in the many decades since the MoA was established. The bylaw may have been introduced in and around the time of the MoA’s execution to highlight the document’s importance.

⁴ “Remuneration” is commonly defined to mean a payment, salary, wage or benefit for work or services – some form of compensation related to a service rendered, as opposed to expense reimbursement or a gratuitous payment.

- 2.12 The BRC and staff propose collapsing the two bylaws related to council's broad authority to set remuneration and expenses into a single bylaw. The amendment is also intended to reflect and support Council Policy 2.16: Council Member Expenses, Honorarium and Remuneration.

Nominations and Elections (Bylaws 21.0 – 24.3)

- 2.13 The BRC concluded that the current nominations and elections bylaws were too prescriptive and detailed, and could be simplified without detriment to fair, effective council elections. Five primary amendments are proposed:
1. Consolidating, into a single bylaw requiring council rules, the two current mechanisms for council elections: paper ballot and electronic ballot;
 2. Extending the deadline for nomination submission for council elections to 60 days prior to the annual meeting date, from the current 30 days;
 3. Removing, by repeal and consolidation, unnecessary detail related to balloting procedures while retaining the critical election elements of deadlines for dates for delivering and returning ballots;
 4. Improving the process for dealing with disputes or irregularities in the nominations and election process through council rules; and
 5. Setting a fixed date for receipt of ballots as the date of the annual meeting, with council required to fix the specific time for receipt of ballots in the council rules noted above.
- 2.14 The use of council rules for multiple electronic votes for bylaw amendments, and earlier this year with an electronic council election, has proven successful. The existing council e-vote rules will need to be modified, and new rules established in relation to paper ballots to replace the detailed procedures proposed for repeal from the current bylaws.

3.0 Recommendations

- 3.1 The BRC recommends that these proposed amendments, , be reviewed for approval in principle by council, with direction to undertake consultation. As with previous bylaw initiatives, these proposals are directly connected to the 2014-2018 AIBC Strategic Plan, namely the goals of “Modernizing the Regulatory Framework” and “Institute Excellence”. Consistent with council policy and bylaw review history, all feedback received from the consultation process will be reviewed by the BRC and brought to council with the committee's final recommendations on these bylaws.
- 3.2 The BRC further recommends return to the previous practice of delivering a courtesy copy of the proposed bylaws and this memorandum to the Ministry of Advanced Education. Finally, council feedback from the September 11, 2018 council meeting should be incorporated in the consultation efforts with members, including clear explanation of the repeal of the treasurer bylaw, and fuller review of bylaws that authorize council rules. Wherever feasible, draft rules or a rules outline should be included as part of the consultation presentation and discussion.

Appendix “A”

Draft Bylaws for Council Consideration: Council and Institute Governance (Seal; Officers & Council; Boards, Task Forces & Committees; Remuneration & Expenses; Nominations & Elections)

Note: New or amended language is found in yellow highlighting; strikeout indicates wording proposed for removal from existing bylaws.

SEAL	
1.0	The Seal of the Institute shall contain the words: “The Architectural Institute of British Columbia. Founded 1914, Incorporated 1920”.
2.0	The Seal of the Institute shall remain in the custody of the Chief Executive Officer (CEO), and shall not be affixed to any deed or writing except as authorized by the Council.
Proposed Bylaw Amendment (combine Bylaws 1.0 and 2.0 into single bylaw):	
1.0	The common seal of the institute shall: (a) contain the words: “The Architectural Institute of British Columbia. Founded 1914, Incorporated 1920”; (b) remain in the custody of the Chief Executive Officer (CEO); and (c) be affixed to those documents required by the <i>Architects Act</i>, and as may be further authorized by council including any application of an electronic version of the seal.
OFFICERS AND COUNCIL	
3.1	No member of the Institute who has filled the office of the President for two successive terms shall be again eligible for the Presidency until the expiration of two years from the termination of the person’s tenure of office.
No Amendments Proposed	
3.4	The Treasurer shall have the care of the monies from time to time received on behalf of the Institute and shall deposit same to the credit of the Institute in the same drafts, notes, bills or cheques as the same are received, in a chartered bank, trust company or credit union to be named by the Council. The Treasurer shall, at least thirty days before each annual meeting, prepare, or cause to be prepared, a full statement of the revenues and expenditures, assets and liabilities of the Institute, up to the date of the audit, and shall furnish a copy thereof duly audited by the auditors of the Institute to the CEO for submission to the Council.
Repeal of Bylaw 3.4 Proposed	

3.5 All cheques issued on behalf of the Institute shall be signed or countersigned by any two of the President, Vice-Presidents, Treasurer or the CEO.

Repeal of Bylaw 3.5 Proposed

3.6 The Council shall appoint a CEO who shall attend Council meetings, implement the instructions of Council and administer and report to Council the affairs of the Institute. The CEO is designated as the head of the Institute for the purposes of the *Freedom of Information and Protection of Privacy Act*.

No Amendments Proposed

3.8 The Institute shall establish, maintain and publish a Code of Conduct for Council including Conflict of Interest Guidelines.

Proposed Bylaw Amendment:

3.8 The ~~Institute~~ **council** shall establish, maintain and publish **both** a ~~Code of Conduct~~ for ~~Council~~ **including and** ~~Conflict of Interest~~ **Guidelines**.

BOARDS, TASK FORCES AND COMMITTEES

4.0 The Council shall have the power to appoint Boards, Task Forces and Committees, and their chairpersons, and to delegate to any such Board, Task Force or Committee such powers as it from time to time sees fit.

Proposed Bylaw Amendment:

4.0 In addition to council's specific authority to appoint committees and boards under Section 20 of the *Architects Act*, council may establish other boards, task forces, committees and like groups as it deems appropriate. Council shall approve and publish terms of reference as to the functions, duties, powers, and composition for each group so established.

4.0.1 The CEO may establish operational boards, task forces, committees and like groups to assist staff with its work for the institute. The CEO must publish terms of reference as to the functions, duties, powers, and composition for each operational group so established.

- 4.1 The Institute shall establish, maintain and publish a Code of Conduct for Boards, Committees and Task Forces including Conflict of Interest Guidelines.

Proposed Bylaw Amendment:

- 4.1 The ~~Institute~~ **council** shall establish, maintain and publish ~~both a Code of Conduct for Boards, Committees and Task Forces including and Conflict of Interest Guidelines.~~

- 5.1 The Registration Board shall implement an “Intern-Architect” program prescribing the employment qualifications and conditions thereof, which must be possessed and demonstrated by persons seeking admission to membership in the Institute prior to their becoming eligible for registration as members of the Institute.

Proposed Bylaw Amendment:

- 5.1 The registration board shall:

- a) implement and monitor an internship in architecture program; and
- b) report to and seek direction from council as it deems appropriate in relation to such program.

- 5.2 The Council may appoint members to a Board in accordance with such memorandum of agreement as may exist with the Association of Professional Engineers and Geoscientists of British Columbia to deal with matters of common concern and jurisdiction.

Repeal of Bylaw 5.2 Proposed

REMUNERATION AND EXPENSES

- 6.0 The remuneration of members of the Council, or of the Registration Board, or their assistants, or of others, shall be fixed from time to time by the Council.

- 7.0 Expenses of officers or members of the Council or of Boards, Task Forces or Committees of special appointees, when occupied in the business of the Institute may be paid out of the funds of the Institute, subject to the approval of the Council.

Proposed Bylaw Amendment (combine Bylaws 6.0 and 7.0 into single bylaw):

- 6.0 Council may establish from time to time, by resolution:

- a) any remuneration, honorarium and attendance compensation amounts for members of council, boards, committees, task forces and like groups; and
- b) expense reimbursement provision for members of council, boards, committees, task forces and like groups.

NOMINATIONS AND ELECTIONS

- 21.0 Nominations for the Council shall be made from the Membership in the following manner:
- (a) any five (5) members in good standing may nominate a member for the Council, such nominations to be in writing and accompanied by a written statement of the nominee that the nominee will serve if elected
 - (b) nominations must be in the hands of the CEO at least thirty (30) days prior to the Annual Meeting. The name of every candidate nominated shall be placed on a list, which shall be the voting list for the election.

Proposed Bylaw Amendment:

- 21.0 Nominations for the **c**Council shall be made ~~from the Membership~~ in the following manner:
- (a) any five (5) members in good standing may nominate a member for the **c**Council, such nominations to be in writing **in the format prescribed by the council**, and accompanied by a written statement of the nominee that the nominee will serve if elected; **and**
 - (b) nominations must be **submitted to** ~~in the hands of~~ the CEO at least ~~thirty (30)~~ **sixty (60)** days prior to the Annual Meeting. The name of every candidate **so** nominated shall be placed on a list, which shall be the voting list for the election.

- 22.1 The names of all candidates for election shall be printed on a ballot in the same type and in alphabetical order, giving their year of registration, residence and previous or present office in Council if any. On this ballot shall be printed directions for its use by members, and any returned ballot, which fails to comply with such directions, shall be declared invalid by the scrutineer and rejected.

Proposed Bylaw Amendment: Consolidate Election Balloting Procedures by Council Rule:

- 22.0 Council shall establish rules for the conduct of council elections conducted by mail ballot and by electronic vote. These rules must address procedures and information not already provided for in these bylaws or in the *Architects Act*, including:
- (a) the format and contents of council election ballots;
 - (b) notification of the election to voting members, including the voting commencement date and time and the closing deadline for return of ballots on the date of the annual meeting;
 - (c) the confidentiality and security of the election process;
 - (d) the management of the election process, including appointment of scrutineers and announcement of election results; and
 - (e) dispute resolution in relation to irregularities in the nomination or voting processes.

22.2 The ballot shall be mailed to all members of the Institute entitled to vote thereon at least fifteen days prior to the Annual Meeting.

Proposed Bylaw Amendment:

23.0 The CEO or delegate must deliver each eligible voter an election ballot at least 15 days before the annual meeting.

23.1 The ballot, when being returned, shall be folded and enclosed in a plain, sealed envelope. This envelope shall then be inserted in an envelope bearing on the outside the signature and Institute Serial Number of the member voting.

Repeal of Bylaw 23.1 Proposed: See Bylaw 22.0 Amendments

23.2 The CEO shall check the signature on each envelope against the register, and ascertain that those voting are entitled to do so. The CEO shall then remove from the outer envelope the inner envelope containing the ballot, and deliver the inner envelope to the scrutineer, being careful to prevent identification of the votes.

Repeal of Bylaw 23.1 Proposed: See Bylaw 22.0 Amendments

23.3 The names of any voters held in question by the CEO shall be referred to the President for decision.

Repeal of Bylaw 23.3 Proposed: Creation of Council Rules for Dispute Resolution in Proposed Bylaw 22.0 (d) above.

23.4 Ballots may be returned to the CEO up until the time announced by the President at the Annual Meeting for the closing of the voting.

Proposed Bylaw Amendment to Make Consistent Electronic and Mail Ballot Return:

24.0 Whether a council election is conducted by mail ballot or electronic vote, ballots must be returned to the CEO or delegate by the deadline established in the council rules under Bylaw 22.0 on the day of the annual meeting in order to be considered valid.

24.1 The CEO or designate, with three scrutineers who shall be appointed by the President at the Meeting, shall have the direction of the election.

Repeal of Bylaw 24.1 Proposed: See Bylaw 22.0 Amendments

24.2 The scrutineer shall open the envelopes containing the ballots and count the votes and certify the result to the President, who shall forthwith announce to the meeting the names of the members having received the most votes, who, with the remaining members of the Council, shall constitute the Council for the ensuing year.

Repeal of Bylaw 24.2 Proposed: See Bylaw 22.0 Amendments

24.3 The Council may establish rules for the conduct of council elections by electronic means, including by internet voting by members entitled to vote. These rules must provide for reasonable access to voting and for the confidentiality and security of such voting process.

Repeal of Bylaw 24.3 Proposed: Replaced by Single Council Election Bylaw – Proposed 22.0 Above.