



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

# Memorandum

**Date:** November 1, 2014  
For submission to AIBC Council at its **November 18, 2014** meeting

**To:** AIBC Council

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

**RE: Analysis and Recommendations:  
Bylaw Amendments for Electronic Vote in 2015**

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## 1.0 Background

1.1 In 2013 through to their approval by members at the May 2014 AIBC annual meeting, the BRC shepherded a pair of bylaws that would enable the institute to e-vote on council elections and bylaw amendments. Council has indicated support for conducting an e-vote on bylaw amendments in 2015, prior to considering whether to conduct e-voting for council elections, perhaps in 2016. In an effort to try to position an e-vote prior to the 2015 annual meeting, staff, council and the Committee will need to work quickly, including triggering consultation. Council’s support for the content of a bylaw e-vote is a pre-requisite step in this process.

1.2 The BRC was tasked with recommending one or more bylaws (among the suite of bylaw amendments under active Committee consideration) for consideration by members for an e-vote. The Committee considered the following basic criteria in order to determine which bylaws to recommend for this first electronic vote:

- Relative importance to the institute;
- State of readiness of the bylaws;
- Likelihood of membership approval, including whether any controversial or complex issues are likely to arise; and

- General suitability for a first e-vote by members (i.e., whether the subject matter of the bylaws is readily understood, better suited for ‘open meeting’ debate and voting, etc.).

1.3 As an initial step, the Committee reviewed those ‘housekeeping’ or administrative bylaws that were supported by council for member vote at the 2012 annual meeting, but failed to be voted on or failed to secure member approval. At that meeting, 22 bylaws were proposed for repeal, amendment or addition. Of that number, 10 were approved by the attending members by the requisite 2/3 majority. Of the 12 that were not approved, some were ‘deferred’ for further review and others were voted upon but failed to satisfy the 2/3 majority.

1.4 Council will recall that the 2012 bylaw votes took place on the same day as a separate special meeting and at a time of heightened tension and debate within council and among some members regarding the ‘associates’ question’ and council authority generally.

1.5 After conducting its review, the BRC is recommending that two bylaws that did not pass in 2012 (one for repeal, one for amendment) be brought back for member vote and that an amendment to an existing administrative bylaw be advanced to address a requirement in the province’s *Freedom of Information and Protection of Privacy Act*. The proposed bylaw amendments are identified below, along with supporting rationale.

1.6 The remaining 10 bylaws not approved in 2012 are still under consideration by the Committee. The subject matter of the remaining 2012 bylaws remains either unresolved at a policy level or otherwise contentious. For example, six of these bylaws relate to the status of AIBC chapters, one relates to *Robert’s Rules of Order* and one would correct an error in the bylaw regarding registration of associates.

1.7 The memo concludes with a reminder and update regarding rules for electronic voting that are required under the bylaws passed earlier this year, and a reminder regarding the policy-mandated consultation required if council supports the Committee’s recommendations.

## **2.0 Bylaws Proposed for Electronic Vote**

2.1 The BRC recommends that Bylaw 18.2, which addresses special meetings of council, be repealed. The bylaw and supporting rationale follow, unchanged since the 2012 annual meeting package:

### **Bylaw 18.2:**

18.2 Special Meetings of the Council may be called by the President, the Executive Director giving notice thereof to every member of the Council by telegram or otherwise at least forty-eight hours previous to the time of meeting.

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### ***Repeal Rationale:***

Council meetings are properly the subject for the *Architects Act* and council's own rule-making authority under that legislation. Council meetings are addressed by way of Section 14(1) of the *Act*, which states that "Subject to this Act, the council may make rules regulating council meetings". Sections 15 ("Quorum"); 16 ("Votes at council"); 17 ("Resolution of council members"); 19 ("Officers" – election of them after every council election); and 69 ("Registration Board" – appointing the board after annual election) are the other statutory provisions touching in some way on council meetings.

No bylaw authorization in Section 24 of the *Act* specifically raises "council meetings" as a subject for bylaws, whereas "institute meetings" (i.e., annual or 'special' meetings called by council or members) are specifically identified in Section 24(1). The only references in the bylaw-authorization subsections of Section 24 to council are those relating to council's authority, by bylaw, to set fees or fines on various matters.

Under basic principles of statutory interpretation and logic, council is expected, under the statute, to regulate and govern its own meetings, subject only to those provisions identified above in the *Act* itself.

**To reflect this rationale and preserve the bylaw's intent, council specifically adopted, as a rule regulating council meetings, the language found in Bylaw 18.2 at its meeting on April 2, 2012. From the approved council meeting minutes:**

**MOTION 3.4 (D): That Council adopts the contents of current Bylaw 18.2 as Rules of Council.**

**Gallant/Pawson**

**CARRIED**

Opposed: none

2.2 The BRC recommends a slight amendment to Bylaw 19.2, which provides the mechanism for continuation of council meetings and AIBC special or annual meetings if the quorum requirement is not met. The BRC supports the 2012 amendment rationale but is recommending a shorter period (45 days vs. 90 days) for resumption of such meeting. The existing bylaw, proposed amendment and supporting rationale follow:

### **Bylaw 19.2**

- 19.2 At any meeting of the Institute or of the Council at which there is no quorum within half an hour after the time called for the meeting, the meeting shall stand adjourned for one week at the same time, and if at such adjourned meeting a quorum is not present, it shall stand adjourned “sine die”.

#### ***Proposed Amendment (with deletions shown in strikethrough and addition in bold):***

- 19.2 At any meeting of the Institute ~~or of the Council~~ at which there is no quorum within half an hour after the time called for the meeting, the meeting shall stand adjourned ~~for one week at the same time, and if at such adjourned meeting a quorum is not present, it shall stand adjourned “sine die”.~~ **until it can be re-scheduled, which re-scheduled date must be set no later than 45 days from the adjourned meeting.**

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#### ***Amendment Rationale:***

The BRC identified two concerns with this bylaw. The first is that it addresses adjournment and quorum issues relating to council meetings. Council’s meetings are governed by the *Act* in the first instance, and then by council itself by virtue of the rule-making authority found in Section 14(1). Regardless, from the perspective of scheduling 15 council members, invited guests, staff and the material required for such meetings, a mandatory one-week adjournment is impractical.

While the bylaws can and should address ‘institute meetings’, a term for a mandatory one-week adjournment poses the same scheduling issues noted above, on a grander scale. Institute meetings that fall short of quorum should be adjourned until such time (within 45 days) as they can be reasonably re-scheduled to ensure a quorum, to satisfy basic notice provisions and booking suitable meeting space in a cost-effective manner.

2.3 The BRC recommends an amendment to current Bylaw 3.6, which establishes the Executive Director position, to specifically identify that individual as the ‘head of the local public body’ for freedom of information purposes. The existing bylaw, proposed amendment and supporting rationale follow:

### **Bylaw 3.6**

- 3.6 The Council shall appoint an Executive Director who shall attend Council meetings, implement the instructions of Council and administer and report to Council the affairs of the Institute.

#### ***Proposed Amendment (with additions in bold):***

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

#### ***Amendment Rationale:***

Under Schedules 1 and 3 to the *Freedom of Information and Protection of Privacy Act* RSBC 1996 c. 165 (“*FIPPA*”), the AIBC is deemed to be a “local public body”. The *FIPPA* therefore applies to all records under the custody and control of the institute. This effectively means that the AIBC, like the provincial government, crown corporations, provincial boards, tribunals and other specified ‘public bodies’, must comply with the *FIPPA*.

Staff has identified a requirement in the *FIPPA* for a more formal designation of a “head” of the local public body for the purposes of the legislation. The section is reproduced below:

77 A local public body, by bylaw or other legal instrument by which the local public body acts,

(a) must designate a person or group of persons as the head of the local public body for the purposes of this Act, and

(b) [Repealed 2011-17-30.]

(c) may set any fees the local public body requires to be paid under section 75.

Currently, the ‘head’ role is undertaken by the Executive Director, delegated to other staff as permitted under the *FIPPA*. In the opinion of staff and the BRC, satisfying this provision would best be met by formal bylaw rather than rule or policy.

A review of other self-regulating bodies in BC indicates that the individual designated by bylaw or other instrument (e.g., by ‘rule’ with the Law Society of BC) is invariably the operational head of the organization, whether CEO, Executive Director, Registrar or other.

We recommend designation of the Executive Director as head of the local public body for AIBC purposes. The role is an operational one, not a policy governance or council oversight role. Amending existing Bylaw 3.6 appears to be the simplest approach to this administrative bylaw amendment.

Staff brought this bylaw need issue to Governance Committee in July 2014 and the issue was included in the BRC’s report submission to council in September 2014.

### **3.0 Rules and E-Voting Mechanics Update**

3.1 Council will recall that the e-voting bylaws passed by members earlier this year require a set of council-approved rules relating to confidentiality, security, voting access, etc. Those rules are in development and will be brought to council by separate submission for consideration at the December planning session. Council passed a policy in June 2014 (12.2 series) that requires a minimum of 30 days’ notification to architects and associates prior to voting on rules or rulings. The policy is attached at Appendix “A”.

3.2 Staff will continue to review e-voting service provider options and otherwise manage the e-voting project.

### **4.0 Bylaw Consultation Policy Update**

4.1 As a final reminder, council passed a policy in June 2014 (12.1 series) that requires any bylaw amendment that council supports in principle to proceed to a consultation process prior to any member vote. The policy is attached at Appendix “A”. The BRC’s proposed consultation would include a more detailed ‘rationale’ for the three proposed bylaw amendments than the summary offered in this memorandum.

## Appendix “A”

<b>12.0</b>	<b>POLICY CATEGORY:</b>	<b>LEGISLATION and BYLAWS</b>
<b>12.1</b>	<b>POLICY FOCUS:</b>	<b>BYLAW AMENDMENTS:</b>
	<b>CONSULTATION</b>	

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- 12.1.1 AIBC bylaws 35.1 and 35.2 provide that members may amend the AIBC’s bylaws only by way of a two-thirds vote of members present at a general meeting or by mail-in ballot with a two-thirds affirmative majority of ballots received (which number must be no less than five per cent of the voting membership of the institute). The bylaws also provide for very specific notice periods and deadlines. E-voting bylaws for bylaw amendments were approved by the members at the 2014 AIBC Annual Meeting which would also require, similarly, two-thirds affirmative majority approval.

Given the high threshold of member support necessary for bylaw change and the importance of bylaws to the governance of the profession, including the establishment of certain professional conduct and ethical standards, an appropriate information and consultation process for architects and other relevant individuals and organizations is warranted. In addition, member consultation provides a genuine opportunity to improve the language of the bylaws and to assess member support prior to any vote.

Council recognizes that a spectrum of bylaw consultation strategies is available; that the options chosen may vary with the nature of the bylaws under consideration; and that bylaw consultation may involve internal and external persons and organizations.

***Accordingly, the Executive Director shall ensure that:***

- 12.1.2 Any bylaw amendment proposal that council supports in principle shall proceed to a consultation process with architects and other relevant persons and organizations (“bylaw consultation”) prior to any bylaw vote by members.
- 12.1.3 Any relevant board, committee, task force or other bylaw amendment proponent undertakes bylaw consultation and reports back to council on the consultation and the feedback received, for council consideration.
- 12.1.4 Bylaw consultation always includes notification and posting of the bylaw initiative to members and the public through publication on the AIBC web site for a reasonable period of time prior to any bylaw vote; an architect information session; and an opportunity for members, associates and the public to provide feedback to the institute.
- 12.1.5 In recognition of the provincial government’s statutory authority to disallow any bylaw passed by the membership, any bylaw consultation always includes adequate notice to, and consultation with, relevant provincial government representatives prior to any bylaw vote.

**12.0**  
**12.2**

**POLICY CATEGORY:**  
**POLICY FOCUS:**  
**NOTIFICATION**

**LEGISLATION and BYLAWS**  
**RULES and RULINGS:**

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- 12.2.1 Council has authority under Section 5 of the *Architects Act* to make ‘rules’ to govern the affairs of the institute, subject to the *Act* itself and AIBC bylaws. Some of these rules are for internal governance, while others are tied to bylaws, such as the rules related to the mandatory continuing education system.

Council also makes ‘rulings’ tied to the bylaws in the AIBC’s *Code of Ethics and Professional Conduct*. These rulings are specific, binding supplements to the bylaws in that document.

Given the importance of both rules and rulings to institute governance and professional standards, providing reasonable notice to members of intended rules and rulings is warranted. Council values member feedback when making rules and rulings.

***Accordingly, the Executive Director shall ensure that:***

- 12.2.2 Notification is provided to architects and associates, and a means to provide feedback is established, for any rules or rulings that council is considering for council vote by:
- Providing at least 30 days’ notice by transmitting specific electronic notification; and
  - Posting such notification on the AIBC web site for at least 30 days.
- 12.2.3 A summary of feedback received is provided for council consideration prior to any council vote.
- 12.2.4 In circumstances where council determines that a council vote on a rule or ruling is urgent such that the notification provided for in 12.2.2 would adversely affect a governance or public interest issue; and council has shortened or eliminated the notification period; specific electronic notification to architects and associates and posting on the AIBC web site are provided of the circumstances and outcome of such vote promptly after the vote.