

REFERENDUM MADNESS

[photo of people]

All right, everybody, no need to panic. I'm here with a little public service announcement on referendums.

As some of you may know, I'm doing a little history of the AMS, and in doing so I have discovered what looks like the first AMS referendum, back in 1945-46. Those were more innocent times. It was suggested for the first time then that political clubs be allowed on campus. Council wasn't sure what to do. It asked the Board of Governors, which said, It's up to you: what are you asking us for? Tuum est. Council still wasn't sure what to do, so it held a plebiscite (which is sort of like a referendum) and students voted 2:1 against allowing political clubs, and so there has never been any politics at UBC since.

[No politics please]

So it took 30 years to have our first referendum, and there were no real rules back then. But in recent times we have gone almost referendum crazy: since 1961 we have held 96 referendums, and even that understates the amount: that's just the number of times we have had referendum questions on the ballot: often we have multiple referendum questions at the same time. Last year, for instance, there were six. By my count, we have asked 154 referendum questions since 1961.

Perhaps one day we'll end up with a referendum question asking this:

[Are you in favour of an end to referendums?] *Can we print that on a slide with a graphic below like the following?*

[Yes-No ballot]

Well, until we pass a referendum like that, we will continue to have referendums.

And having had so many over the years, we have developed a set of rules for handling them. These can be found in the AMS Code and Bylaws.

There are two ways to initiate a referendum. AMS Council can pass a resolution calling for one. **[Council photo]**

Or if a thousand students sign a petition calling for one, that also means we hold one.

[photo of petition]

Once a petition is received, certain procedures are to be followed. Assuming Council sees no problem with the question, a referendum must take place between 10 and 30 days after the petition was received.

[calendar showing this?]

This assumes that the signatures and student numbers on the petition have been checked and that there are 1000 bona fide current students who have signed.

Assuming that happens, the President **[photo of Tanner]** is the one who chooses when exactly in the 10-30 day period the referendum will take place. And the referendum must run for at least 5 calendar days.

Once the President has named the dates, the Elections Committee is required to publicize the referendum and also publicize the fact that money is available for a Yes Committee and a No Committee.

[photo of yes-no ballot]

\$1000 is available. This is not the limit on how much can be spent. There are no spending limits in referendums. **[sky is the limit photo]**

The \$1000 is meant primarily as a minimum, so if one side lacks money for posters etc., they can get a little funding from the AMS itself. This is meant to ensure balance, to ensure that both sides get heard.

In order to get the money, a committee must be formed which gathers 150 signatures to be submitted to the Elections Committee – or if, as in this case, the referendum has come about via petition, then the petitioners are deemed to have already collected the 150 signatures for funding, as long as they indicated on the original petition that they were seeking to be the Yes Committee.

The Elections Administrator is also supposed to hold a Referendum Meeting at which he will go over the referendum rules and hand out a referendum handbook.

The publicity for the referendum must start at least a week before the referendum. **[Hear ye, hear ye photo: town crier]** The Referendum Meeting must also take place at least a week before the referendum.

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You will notice that in a referendum by petition there seems to be little role for Council. **[council]** This is true. One of Council's few roles in this situation is to look over the question and if it does not seem that the question can be answered yes or no, Council can refer it to Student Court.

Here is the exact wording of that rule, from the Bylaws **[on screen]**:

The text of the referendum shall be drafted to ensure that the question is capable of being answered “yes” or “no” and if in the opinion of Council a petition for a referendum does not meet this requirement, Council shall forthwith refer the referendum to the Court to prepare a clear and unambiguous question.

I know of two past times in which a question was referred to Student Court **[photo of a court, maybe Canadian Supreme Court]**. In 2001 a petition arrived with a question that would have asked students to tell the AMS to withdraw from the health and dental plan “immediately.” However, that would have violated our contract, so Council asked the Court to

fix things, which they did by amending the question to say that if the referendum passed the AMS would pull out of the health and dental plan at the end of the current contract. That was the question that then went to the students (who voted it down anyway, so we still have a health and dental plan).

You will notice that the Court took a broad interpretation of its powers to amend on the grounds of yes-no ambiguity in that case. At that time they were following an earlier Court case from 1989, the Duke's Cookies case **[photo of duke's?]**. In that case, a petition came in asking the AMS to extend the lease of Duke's Cookies. Duke's Cookies was a tenant in the SUB back then, like the Delly. At the end of their lease the AMS had decided not to renew but instead to start its own cookie shop: Blue Chip Cookies. **[photo of Blue Chip]** By the time the petition arrived, the lease was already up and Duke's had moved out. Council referred the question to the Court, which ruled that given the changed facts, the question as written didn't work; the Court also saw no way to rewrite the question, and thus ordered that there be no referendum.

So those are the two cases I know in which a question went to the Court. In that 2001 case you will note that the issue was violating a contract. We have since addressed that in Code so that if a question would entail breaking a contract what we are now supposed to do is indicate that in the question, along with an indication of what penalty there would be for breaking the contract. **[photo of tearing up a contract? then a dollar sign?]**

I also note that we now have a rule stating that nothing illegal may be proposed in a referendum question. **[photo of a bank robber? with a caption: Resolved that the AMS begin robbing banks]**

So, as I was saying, one of Council's few roles in a referendum by petition is to decide whether a question needs to go to Student Court. If Council does so decide, then everything suddenly stops. **[cop holding up hand, saying Stop?]** The question goes to the Court, not to the students. The Court has one week to consider it. It must come back within a week to Council. The Court could conceivably say that the question is fine. Or if it decides that it is not fine, it must bring a revised text to Council, and that is the text, that is the question, that goes to a vote among the students.

Once the Court reports, then the clock for the referendum is restarted **[clock]**, and there must be a 10-day delay before the referendum can take place. The time frame for the referendum would then be 10-30 days after the Court supplies a new question, instead of 10-30 days after the receipt of the petition.

So if Council voted today to send the question to Student Court, the referendum would not go ahead on the dates currently being suggested (March 16-20). Instead, we would wait for one week, until March 11, for the Court to submit a new question. Then there would have to be a delay of at least 10 days, so the earliest the referendum could start would be March 21.

I note that the latest the referendum can end is March 31, because our Bylaws require referendums to take place during the School Year and they define the School Year to end on March 31.

So [on screen]: If Council retains the current question, the referendum could be March

16-20. If it refers the question to Student Court, the referendum will be sometime in the March 21-31 period.

One other role Council can exercise in a referendum by petition is taking a side in the referendum. Code allows Council to decide, by Resolution, to support the Yes or No side. If Council declines to take either a Yes or No position, by default the rules say that we are neutral. **[neutrality? Switzerland?]**

If the AMS is neutral, none of its resources can be used by either side in the referendum. That includes the resources of the Clubs, the Constituencies, and the Resource Groups.

If neutral, the AMS can still publicize the referendum and provide information, but it would have to be unbiased, impartial information. We have been neutral in referendums before, for instance in the first U-Pass referendum in 2003, when we were unsure if U-Pass was a good thing. So our messaging was informative without taking sides.

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That I think covers the procedural matters leading up to the referendum. Just a brief note on how a referendum is decided, and then I will stop. This referendum will require a simple majority of the votes cast to pass. Abstentions don't count, so for the referendum to pass, what's needed first of all is simply that there be more Yes votes than No votes.

Secondly, the Yes side will have to meet quorum. Quorum in an AMS referendum is an unusual sort of quorum; it doesn't depend on the total turnout. If you vote No, you do **not** help the Yes side reach quorum. Quorum is purely a requirement for the Yes side. In order for the referendum to pass, the Yes side must get at least 8% of the eligible voters to vote Yes.

[To pass:

- 1) More Yes votes than No votes.**
- 2) Quorum: at least 8% of the eligible voters must vote Yes]**

This year for the first time the AMS has more than 50,000 members, which means more than 50,000 eligible voters. The Elections Administrator will determine the exact number soon. The number we have from December is 50,977. 8% of that is 4078. If that is indeed the correct number, this means that for the referendum to pass the Yes side would need to get at least 4078 votes and of course it must also get more votes than the No side. But Andrew the Elections Administrator will confirm the numbers.

And that is all I have to say.