

Bill No. 37 of 1952.

A BILL TO AMEND THE CONTROVERTED
MUNICIPAL ELECTIONS ACT.

NOTE.

This Bill amends *The Controverted Municipal Elections Act*, being chapter 155 of the Revised Statutes of Alberta, 1942.

Section 16 is amended by substituting a new section which increases the time from four weeks to six weeks within which proceedings may be commenced against a person for bribery or undue influence. Other proceedings under this Act may be brought within six weeks and this amendment is for the purpose of making the time the same for all proceedings. In addition, section 16 has been amended so as to refer specifically to a voting upon a by-law.

Certain enactments, notably *The City Act* and *The Municipal District Act* provide that the proceedings to contest an election or voting on a by-law shall be taken under the provisions of *The Controverted Municipal Elections Act*. However, this Act does not specifically provide for contesting the voting upon a by-law. The amendments to sections 20, 26, 30, 31, 32 and 33 are for the purpose of making the Act applicable to circumstances where a vote upon a by-law is contested.

This Bill comes into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 37 of 1952.

An Act to amend The Controverted Municipal Elections Act.

(Assented to _____, 1952.)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Controverted Municipal Elections Act*, being chapter 155 of the Revised Statutes of Alberta, 1942, is hereby amended.

2. Section 16 is struck out and the following is substituted: Section 16 amended

“**16.** Proceedings against a person for bribery or undue influence within the meaning of this Act shall be commenced within six weeks after the day of,— Limitation

“(a) the election; or

“(b) the voting upon a by-law;

in respect of which the offence is alleged to have been committed.”.

3. Section 19 is amended by striking out subsection (1) and by substituting the following: Section 19 amended

“**19.** (1) If within six weeks after an election or a voting upon a by-law a relator shows by affidavit to a judge reasonable grounds,— Notice of motion

“(a) for supposing that the election was not legal or was not conducted according to law or that the person declared elected thereat was not duly elected; or

“(b) for contesting the validity of the election of a member of the council; or

“(c) for supposing that the voting upon a by-law was not legal or was not conducted according to law;

the judge may grant his fiat authorizing the relator upon entering into a sufficient recognizance as provided in subsection (3) to serve a notice of motion in the nature of a *quo warranto* to determine the matter.”.

4. Section 20 is amended by striking out subsection (2) and by substituting the following: Section 20 amended

“(2) The relator in his notice of motion shall set forth his name in full, his occupation, place of residence and the interest which he has in the election or the voting on a by-law as a candidate, voter or otherwise and shall also state specifically under distinct heads,— Contents of notice of motion

- “(a) all the grounds of objection to the validity of the election or the voting upon the by-law complained against;
- “(b) if the relator claims that he or any other person or persons should have been declared duly elected, the grounds in favour of the validity of the election of the relator or of the other person or persons;
- “(c) the grounds of forfeiture or disqualification of the respondent;
- “(d) if the relator claims that the result of the voting on the by-law should be reversed, the grounds in support of that contention of the relator;
- “(e) if the relator makes any other claims, the grounds therefor.”.

Section 26
amended

5. Section 26 is amended:

- (a) by adding immediately after the words “to object” the words “to the voting upon the by-law or”;
- (b) by adding immediately after the words “of objection” the words “to the voting upon the by-law or of objection”;
- (c) by adding immediately after the words “the validity” the words “of the voting upon the by-law or”.

Section 30
amended

6. Section 30 is amended:

- (a) by adding immediately after the words “validity of”, where they occur in subsection (1), the words “the voting upon the by-law or of”;
- (b) by striking out subsection (2) and by substituting the following:

Discretion of
judge where
irregularities
have not
affected
result of
election

“(2) In any case where the validity of an election or a voting upon a by-law is contested before a judge by reason of a non-compliance with or a violation of a provision of this Act or any other Act applicable to the election or to the voting as to the holding of the polls or the counting of the votes or by reason of a mistake in the use of any of the forms required in connection with the election or the voting, or by reason of any other irregularity, the judge, in his discretion, may adjudge the election or the voting to be invalid, or if it appears to him that the election or the voting was conducted substantially in accordance with the requirements of the Act under which the election or the voting was held and to which this Act applies, and that the non-compliance, violation, mistake or irregularity did not materially affect the result of the election or the voting, he may adjudge the election or the voting upon the by-law to be valid.”.

Section 31
amended

7. Section 31 is amended by adding immediately after subsection (1) the following new subsection:

“(1a) In case the voting upon a by-law complained of is adjudged invalid the judge by his judgment shall declare the voting on the by-law invalid and may,—

“(a) order a new vote to be held;

“(b) make such order as he deems just having regard to all the circumstances.”.

8. Section 32, subsection (1) is amended:

Section 32
amended

- (a) by adding immediately after the word “election” the words “or a voting upon a by-law”;
- (b) by adding immediately after the words “declared elected” the words “, or to declare the by-law invalid,”.

9. Section 33 is struck out and the following is substituted:

Section 33
amended

“33. Where it is made to appear to the judge that an election or a voting upon a by-law is invalid by reason of any Act of non-feasance or misfeasance on the part of the returning officer, any deputy returning officer or any poll clerk, the judge may in his discretion order that the costs of the proceedings to unseat the person declared elected, or to declare the voting upon the by-law invalid, or any part thereof, or any other costs be paid by the municipality in and for which the election or revoting was held.”.

Judge may
order costs
of contested
election
proceedings
be paid by
municipality

10. This Act shall come into force on the day upon which it is assented to.

Coming
into force

No. 37.

FIFTH SESSION
ELEVENTH LEGISLATURE

1 Elizabeth II

1952

BILL

An Act to amend The Controverted
Municipal Elections Act.

Received and read the

First time

Second time.....

Third time.....

HON. MR. GERHART.
