

1969 BILL 40

Second Session, 16th Legislature, 18 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 40

An Act to amend The Election Act

THE HON. R. A. SPEAKER

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

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1969

An Act to amend The Election Act

(Assented to _____, 1969)

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

1. *The Election Act* is hereby amended.

2. The following is added after section 2:

2a. (1) The Lieutenant Governor in Council may appoint a resident elector of an electoral division to be the returning officer of the electoral division for the purposes of or in connection with elections under this Act and plebiscites under this or any other Act.

(2) Where a writ is issued for an election or plebiscite in an electoral division for which a returning officer has been appointed under subsection (1), that returning officer shall be named in the writ as the returning officer for that electoral division.

(3) In addition to performing the other duties required of a returning officer under this Act, a returning officer appointed under subsection (1) shall

- (a) from time to time review electoral subdivision boundaries,
- (b) make such advance plans and preparations as are feasible to enable an election or plebiscite, when called in his electoral division, to be proceeded with expeditiously and efficiently,
- (c) keep himself informed and knowledgeable on the requirements of this Act so that an election or plebiscite in his electoral subdivision may be conducted with due dispatch and propriety in the best interests of the electors and candidates, and
- (d) from time to time or as requested by the Clerk of the Executive Council, investigate and study elec-

Explanatory Notes

1. This Bill amends chapter 15 of the Statutes of Alberta, 1956 to give effect to the recommendations of the Legislative Committee made at the 1968 session of the Legislature.

2. Provision is made for permanent returning officers to carry out various functions between elections. Appointments are for one-year terms. The new section will replace section 172.

tion practices and procedures for the purposes of instituting increased economy, efficiency and service to electors and candidates.

(4) The appointment of a returning officer under subsection (1) expires one year from the date it becomes effective, unless during that time a writ is directed to him in which case his appointment expires 60 days after the election or plesbiscite directed by the writ is held.

(5) A returning officer appointed under subsection (1) shall receive such compensation for his services and such subsistence and travelling allowances as may be prescribed by the Lieutenant Governor in Council.

3. Section 13 is amended by striking out subsections (2) and (3) and by substituting the following:

(2) The proclamation shall be published

(a) in a city constituency, by posting a copy in the returning officer's office and by publishing a copy, together with a notice of the address of the returning officer's office, in a newspaper published in the city, and

(b) in an electoral division other than a city constituency, by posting a copy in the returning officer's office and in each post office in the electoral division,

at least eight days before nomination day, neither the last day allowed for publication nor nomination day being reckoned in the eight days.

(3) The returning officer may post additional copies of the proclamation at such other places in the electoral division where he considers they will be reasonably safe from damage and will serve as public information.

(3a) The returning officer shall, at the time the proclamation is published, publish in a newspaper circulating in the electoral division a map showing the polling subdivisions of the electoral division.

4. Section 16 is amended by striking out subsection (2) and by substituting the following:

(2) Clause (e) of subsection (1) does not apply to a person who is not mentally incompetent and who is in a hospital as a voluntary patient under section 5 of *The Mental Health Act*.

5. Section 25 is struck out.

6. Section 32 is amended by striking out the words "twenty-one" and by substituting the figure "19".

3. Section 13 (2) and (3) presently read:

(2) The proclamation shall be posted up in at least two conspicuous places in each polling subdivision in the electoral division at least eight days before nomination day, neither the last day allowed for posting up nor the nomination day being reckoned in the said eight days.

(3) In a city, town or village the proclamation shall be posted up at the city or town hall or other public place where the meetings of the municipal council are held and in at least one other public place in each polling subdivision.

4. Section 16 (2) is revised for clarification and to correct an error in cross-reference.

Subsection (2) presently reads:

(2) Clause (e) of subsection (1) does not apply to a person who is in a hospital as a voluntary patient under section 4 of The Mental Health Act.

5. Section 25 is removed as it duplicates provisions already contained in section 63 of the Act.

6. Section 32 presently reads:

32. A person is qualified to be a candidate at an election if he or she is an elector of the full age of twenty-one years who is not disqualified by The Legislative Assembly Act, 1955, or by any other Act.

7. The following is added after section 36:

36a. The returning officer shall provide to every candidate nominated

- (a) at least one copy of the proclamation, and
- (b) at least one copy of a map showing the polling subdivisions in the electoral division.

8. Section 58, subsection (2) is amended

- (a) by adding after the words “lock and key” the words “or metal seals”,
- (b) by adding after the word “unlocking” the words “or unsealing”.

9. Sections 63 and 64 are struck out and the following are substituted:

63. (1) The returning officer shall establish not more than three special polling places for the purpose of enabling

- (a) electors who are invalids, and
- (b) electors who believe that they will necessarily be absent from their places of residence on the day fixed for the election

to vote in advance at an election held in the electoral division in which those electors reside.

(2) The advance polling places shall be established in central and convenient locations in each electoral division.

(3) An advance polling place shall be open between the hours of 11 o'clock in the morning and 9 o'clock in the evening of the Tuesday, Wednesday, Thursday, Friday and Saturday of the week preceding that of the election, but at no other times.

(4) The returning officer shall, on the proclamation required by section 13, publish the place, dates and time fixed for the holding of an advance polling.

(5) Except as provided in this section, an advance polling shall be conducted and all things done in respect thereof in the same manner as is provided by this Act for the conduct of an election in the electoral division in which the advance poll is located.

(6) The poll clerk at an advance poll shall after the name of each voter record in the poll book and in a column headed “Remarks”, a note that such person has signed the declaration referred to in subsection (5) of section 63a.

(7) The deputy returning officer shall at all times after the opening of the advance poll take every precaution to prevent any person whomsoever other than the poll clerk during the voting from having access to the ballot box.

7. Material to be supplied to candidates.

8. Section 58 (2) presently reads:

(2) The ballot boxes shall be made of some durable material, furnished with lock and key and so constructed that the ballot papers may be deposited therein but cannot be withdrawn therefrom without unlocking the boxes.

9. Sections 63 and 64 which provide for advance polls are revised to authorize the swearing in of electors whose names do not appear on the list of electors.

(8) At the close of an advance poll on each day, the deputy returning officer and the poll clerk and also any candidate or agent of a candidate present who desires to do so shall seal the ballot box in such manner that it cannot be opened nor any ballot papers deposited in it without breaking the seals.

(9) No seals placed on the ballot box shall be removed between the opening of the advance polling and the time fixed for the closing of the polls on election day, except only at the opening of the advance poll on the second, third, fourth and fifth days' voting, and then only those seals shall be removed as may be necessary to permit the insertion of ballot papers in the ballot box.

(10) At the close of the advance poll on the fifth day

- (a) the deputy returning officer and the poll clerk and also any candidate or agent of a candidate present who desires to do so shall seal the ballot box in such a manner that it cannot be opened nor ballot papers deposited in it without breaking the seals, and
- (b) the deputy returning officer shall take charge of and safely keep the ballot box until the close of poll on election day when he and the poll clerk shall proceed as directed by section 96.

63a. (1) In this section "election officer" means,

- (a) in a city constituency, the returning officer of the city constituency, or
- (b) in any other electoral division, the enumerator of the polling subdivision,

in which the applicant resides.

(2) An elector who considers it necessary to vote at an advance poll may, at any time

- (a) after the list of electors has been posted, and
- (b) before the approved copy has been given to the deputy returning officer,

apply to the election officer for an advance poll voting certificate.

(3) Where the applicant's name appears on the list of electors for the polling subdivision, the election officer shall

- (a) give the applicant an advance poll voting certificate in Form 14, and
- (b) write opposite the name of the elector on the list of electors the words "Advance Poll".

(4) Where the applicant's name does not appear on the list of electors for a polling subdivision, if the applicant

- (a) takes the oath in Form 31, before the election officer, and

- (b) is vouched for by an elector
 - (i) whose name appears on the list of electors,
 - (ii) who is resident in the same polling subdivision as the applicant, and
 - (iii) who takes the oath in Form 32 before the election officer,the election officer shall
- (c) give the applicant an advance poll voting certificate in Form 14 on the back of which is endorsed the name and particulars and number on the list of electors of the elector who vouched for the applicant, and
- (d) enter on the list of electors the name and particulars of the applicant and the words "Advance Poll".

(5) An elector to whom an advance poll voting certificate has been given may, at any time the advance poll is open, present the certificate to the deputy returning officer in charge of the advance polling place, but before being allowed to vote the deputy returning officer shall require him to make and sign the declaration in Form 14 in addition to any other oath that may be required of voters under this Act, and the declaration shall be attached to the certificate and kept by the deputy returning officer with his other records.

(6) A person who corruptly

- (a) for the purpose of obtaining from an election officer an advance poll voting certificate, makes to the officer any false statement, or
 - (b) forges or fabricates an advance poll voting certificate or any name thereon, or not being the person named therein presents any such certificate to any deputy returning officer or poll clerk at any polling place, or
 - (c) makes a false statement in any declaration made before a deputy returning officer, or
 - (d) after having obtained an advance poll voting certificate votes or attempts to vote at any other than the advance poll, except upon the surrender on election day of the certificate as is provided for in section 64, or
 - (e) in any other manner contravenes this section,
- is guilty of an offence and liable on summary conviction to a fine of not less than \$50 or more than \$1,000 and in default of payment to imprisonment for a term not exceeding 90 days.

64. (1) Where the list of electors indicates that an elector has received an advance poll voting certificate, the election officers at the elector's home polling place on polling day shall deem him to have already voted.

(2) Notwithstanding subsection (1), where an elector who has obtained an advance poll voting certificate does not vote at the advance poll, he may vote on polling day at the polling place at which his name appears upon the list of electors if before voting he surrenders his advance poll voting certificate to the deputy returning officer, who shall then and there cancel the certificate and the entry concerning it on the official list of electors, and thereupon the elector is entitled to vote as if the certificate had not been issued.

10. Section 68, subsection (1) is amended

(a) by striking out clause (b) and by substituting the following:

(b) shall then seal the empty box in such a manner as to prevent it being opened without breaking the seal,

(b) as to clause (d) by striking out the words "locked and".

11. Section 72 is struck out and the following is substituted:

Swearing-in on Polling Day

71a. (1) The returning officer of a city constituency shall establish a swearing-in poll for the constituency which may be situated at a convenient place in or outside the constituency and may be operated in conjunction with similar polls of other city constituencies.

(2) Where two or more swearing-in polls are operated conjointly, the same person may act as deputy returning officer or poll clerk for the swearing-in poll of more than one city constituency.

(3) Except as provided in this section and section 72, the polling at a swearing-in poll shall be conducted and all things shall be done in respect thereof in the same manner as is provided in this Act for ordinary polls.

72. (1) Subject to compliance with subsection (2), a person whose name does not appear on the list of electors may vote

(a) at the polling place for the polling subdivision in which he resides, or

10. Section 68 (1) (b) and (d) presently read:

68. (1) The deputy returning officer

.....

(b) shall then lock the empty box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal,

.....

(d) shall keep the box so locked and sealed.

11. Section 71a is added to provide for special polls in city constituencies to swear in voters whose names are not on the list of electors and section 72 is revised to make it applicable to city constituencies.

(b) if he resides in a city constituency, at the swearing-in poll for the constituency in which he resides, upon application to the deputy returning officer thereof while the poll is open.

(2) If an applicant whose name does not appear on the list of electors

(a) takes the oath in Form 31 before the deputy returning officer, and

(b) is vouched for by an elector

(i) whose name appears on the list of electors,

(ii) who is resident in the same polling subdivision as the applicant, and

(iii) who takes the oath in Form 32 before the deputy returning officer,

the deputy returning officer shall

(c) cause the name and particulars of the applicant to be entered in the poll book, followed by the name and particulars and number on the list of electors of the elector who vouched for him, followed by the word "sworn", and

(d) in an electoral division, other than a city constituency, cause the applicant's name to be added to the list of electors with the word "sworn" written thereafter,

and thereupon the applicant may vote.

(3) No elector shall vouch for more than one applicant.

(4) For the purpose of vouching, an elector may be permitted to enter and remain in a polling place.

(5) A person

(a) who votes or who attempts to vote under this section knowing he has no right to vote, or

(b) who takes a false oath, or

(c) who falsely vouches for an applicant voter, or

(d) induces or procures or attempts to induce or procure or who aids and abets any other person to vote or attempt to vote under this section, knowing that person has no right to vote,

is guilty of an offence and liable on summary conviction to a fine of not more than \$100 and in default of payment to imprisonment for a term not exceeding 90 days.

12. Section 84 is amended by striking out subsection (4) and by substituting the following:

(4) In this section and the Sixth Schedule "hospital"

(a) includes a sanatorium, rest home and home for the aged or infirm, but

12. Section 84 provides for hospital voting elsewhere than in Edmonton and Calgary which presently are governed by The Hospital Voting Act, 1960. The provisions of that Act are being revised and brought into The Election Act.

(b) does not include a hospital within the meaning of *The Mental Health Act*.

(5) Subsections (1) to (3) do not apply in the City of Edmonton and the City of Calgary to which the Sixth Schedule applies.

13. Section 95, subsection (8) is amended by striking out the words "lock and".

14. Section 119, subsection (2) is amended by adding after the words "advance polls" the words "or absentee student polls".

15. Section 172 is struck out.

16. The First Schedule is amended

- (a) as to Form 4 by striking out the words "the hour of two o'clock till five o'clock in the afternoon and from seven o'clock till ten o'clock in the evening of the" and by substituting the words "11 o'clock in the morning until 9 o'clock in the evening of the Tuesday, Wednesday,"
- (b) by striking out Form 11A and by substituting the following:

FORM 11A

ENUMERATOR'S ABSENTEE RECORD	ENUMERATOR'S ABSENTEE NOTICE
	The enumerators for your Polling Subdivision called at
	a.m.
..... p.m. on, and
(Address)	found no one at home. Will call
	back again at approximately
.....	a.m.
(Date) (Time) p.m. on or you
Call Back:	may call the undersigned at ph.
Date
Time
	Enumerator Address

- (c) as to Form 31 by striking out of paragraph 1 the words "you are now resident in this polling subdivision" and by substituting the words "you were ordinarily resident in
(name of polling

13. A reference to locks is removed so as to enable ballot boxes to be sealed with other suitable devices.

14. Section 119 (1) and (2) presently read:

119. (1) No spirituous or fermented liquors or alcoholic drinks shall be sold or given at any hotel, tavern, shop, liquor vendors or other place within the limits of any polling subdivision in the electoral division during the whole of the polling day at an election.

(2) Subsection (1) does not apply to the days appointed as polling days at advance polls.

15. Section 172 is replaced by the new section 2a.

16. Forms are amended to conform to changes made in the body of the Act.

..... on the
subdivision in which voter seeks to vote)
day that the writ was issued”,

(d) as to Form 32

- (i) by striking out of paragraph 1 the words “now reside in this polling subdivision” and by substituting the words “now reside in”,
.....”,
(name of polling subdivision)
- (ii) by striking out of paragraph 2 the words “to have his name added to the list of electors in this polling subdivision” and by substituting the words “to vote at this election”,
- (iii) by striking out of paragraph 3 the words “resident in this electoral division and this polling subdivision on” and by substituting the words “resident in”,
.....”,
(name of electoral division and polling subdivision)

17. The Third Schedule is amended

- (a) as to Division One by renumbering Rule 4 as subrule (1) and by adding the following after the renumbered subrule (1):
 - (2) Where the enumerators find no competent person at a dwelling place they may leave at or mail to the dwelling place a notice in Form 11A in the First Schedule.
- (b) by striking out Division Two.

18. The Fourth Schedule is amended as to Regulation 2 (3) by striking out the words “lock and”.

19. The following is added after the Fifth Schedule.

SIXTH SCHEDULE
EDMONTON AND CALGARY HOSPITAL VOTING
RULES

1. Where by any means it is made to appear to the Clerk of the Executive Council, at any time after nomination day and not later than the second day before polling day, that there are in any hospital within the City of Calgary or the City of Edmonton not less than 10 patients resident in the city in which the hospital is situated who are entitled to vote at the election, the Clerk shall by telegram or by letter

17. (a) A provision is added to the city enumeration procedure to give recognition to an accepted practice.

(b) Division Two provides for a permanent Registry of electors in which any elector of a city constituency may be registered on application. An elector so registered is entitled to vote in a city constituency even though his name was not on the list of electors. Almost no use has been made in the past of the Registry and with the introduction of city swearing-in polls, the reason for the Registry's establishment has gone.

18. Reference to locks removed to enable the use of metals seals

19. The provisions of The Hospital Voting Act, 1960 are brought into The Election Act and amended to authorize voting on production of an enumerator's certificate or by swearing-in.

forthwith instruct the returning officer of each of the electoral divisions in the city to take a poll in the hospital for residents of his electoral division who are patients in the hospital on election day.

2. (1) Upon receiving instructions pursuant to section 1, the returning officer shall appoint a deputy returning officer to take a poll of the votes of the electors of the electoral division who are patients in the hospital, but of no other persons whomsoever.

(2) Where it appears advisable because of the number of electors in the hospital, the returning officer may appoint two or more deputy returning officers to conduct polls in different parts of the hospital.

3. (1) The poll of an electoral division in any hospital in the city may be operated in conjunction with similar polls of other electoral divisions in that hospital.

(2) Where two or more hospital polls are operated conjointly, the same person may act as deputy returning officer or poll clerk for the hospital polls of more than one electoral division.

4. (1) The returning officer shall fix a period on election day for the taking of the poll at the hospital, and appoint the times at which the poll shall be opened and closed.

(2) During the hours fixed under subsection (1), the deputy returning officer and the poll clerk, accompanied by an officer of the hospital and by the representatives of the candidates, if any, shall attend with a ballot box upon every person in the hospital

- (a) who is certified in writing by the superintendent or other person having charge of the hospital to be a *bona fide* patient in the hospital and well enough to vote, and
- (b) who claims to be an elector of the electoral division for which the poll is being taken, and if the person wishes to vote and either
- (c) produces an enumerator's certificate showing he was enumerated as an elector of the electoral subdivision, or
- (d) takes the oath in Form 31 before the deputy returning officer,

the deputy returning officer shall cause the name and particulars of the applicant to be entered in the poll book and shall take the vote of the person.

5. Every hospital at which a poll is taken under this Schedule is a polling place for each of the electoral divisions for which a poll is taken and

- (a) except as provided in this Schedule, and

(b) to the extent that they are reasonably applicable to a hospital poll, the provisions of this Act relating to the holding of a poll apply *mutatis mutandis* to the holding of a poll pursuant to this Schedule.

20. *The Hospital Voting Act, 1960* is repealed.

21. This Act comes into force on the day upon which it is assented to.

20. 1960, chapter 42 repealed.