

1974 Bill 34

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 34

The Municipal Election Amendment Act, 1974

MR. BATIUK

First Reading

Second Reading

Third Reading

Bill 34
Mr. Batiuk

BILL 34

1974

THE MUNICIPAL ELECTION AMENDMENT ACT, 1974

(Assented to _____, 1974)

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

1. The Municipal Election Act is hereby amended.

2. Section 2 is amended by adding the following clause after clause 4:

4.1 "judge" means a judge of the Supreme Court of Alberta or a judge of the district court in the judicial district within which a municipality is wholly or mainly situated;

3. Section 4 is amended by striking out subsection (1) and by substituting the following subsection:

4. (1) All the provisions of this Act that apply to villages apply to summer villages except that in respect of a summer village

- (a) no list of electors shall be prepared and sections 98, 99 and 100 do not apply;
- (b) the persons entitled to vote at an election are:
 - (i) every proprietary elector of the full age of 18 years;
 - (ii) the spouse of every proprietary elector, if the spouse is of the full age of 18 years;
 - (iii) every person of the full age of 18 years not entitled to vote under subclause (i) or (ii) who is a Canadian citizen or British subject who has resided in Alberta for the six consecutive months immediately preceding nomination day and was resident in the summer village on nomination day;
- (c) nominations for councillors shall be received by the returning officer up to the expiration of one hour after the commencement of the annual meeting

Explanatory Notes

1. This Bill will amend chapter 245 of the Revised Statutes of Alberta 1970.

2. Definition.

3. Section 4, subsection (1) presently reads:

4. (1) All the provisions of this Act that apply to villages apply to summer villages, except that in respect of a summer village
 - (a) a list of electors if a vote is required in an election, shall be prepared by the municipal secretary by a system of registration rather than enumeration and shall contain the names of the proprietary electors, and of those persons who register under clause (b), subclauses (ii) and (iii), and sections 39 and 41, section 43, subsection (2), section 44 and sections 99 and 100 do not apply;
 - (b) the persons entitled to vote at an election are:
 - (i) every proprietary elector of the full age of 18 years;
 - (ii) the spouse of every proprietary elector, if the spouse is of the full age of 18 years and the spouse's name is on the list of electors by reason of registration; and
 - (iii) every person of the full age of 18 years not entitled to vote under subclause (i) or (ii) but who is a Canadian citizen or British subject who has resided continuously in the summer village for 12 months immediately preceding polling day and whose name is on the list of electors by reason of registration;
 - (c) registration of persons under clause (b), subclauses (ii) and (iii) shall take place during regular office hours in the period commencing on the first day of January in each year and ending on the first Saturday following nomination day;
 - (d) nomination for councillors shall be received by the returning officer up to the expiration of one hour after the commencement of the annual meeting of the ratepayers, and sections 51 and 52 and section 54, subsection (1), clause (b), subclause (i) do not apply;
 - (e) polling hours in an election or in a vote on a by-law or question shall be between the hours of 12 o'clock noon and 9 o'clock in the evening, and section 94 does not apply;
 - (f) in order to qualify as a councillor, a person is not required to be a resident of the summer village;
 - (g) three councillors shall be elected annually and shall hold office for a period of one year,

of the ratepayers in the year in which an election is to be held, and sections 51 and 52 and section 54, subsection (1), clause (b), subclause (i) do not apply;

- (d) polling hours in an election or in a vote on a by-law or question shall be between the hours of 12 o'clock noon and 9 o'clock in the evening, and section 94 does not apply;
- (e) in order to qualify as a councillor, a person is not required to be a resident of the summer village but must have resided in Alberta for the 12 consecutive months immediately preceding nomination day.

4. The following section is added after section 4:

4.1 (1) Every proprietary elector and every elector of a summer village shall subscribe to a declaration, in the form prescribed by the Minister, that he is qualified to vote as an elector or as a proprietary elector, as the case may be, and a person subscribing to the declaration shall be permitted to vote.

(2) Every declaration shall be subscribed in the presence of the officer presiding at the poll.

5. Section 6, subsection (3) is amended by striking out the words "first Saturday in November" and by substituting the words "third Wednesday in September".

6. Section 10 is amended

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

(d) a resident of Alberta for the 12 consecutive months immediately preceding nomination day and a resident of the city, town or village for the six consecutive months immediately preceding nomination day,

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

(e) a resident in Alberta for the 12 consecutive months immediately preceding nomination day and a resident in the electoral division of the municipal district for which he is nominated for the six consecutive months immediately preceding nomination day, and

4. Consequential to amendment to section 4 of the Act.

5. Consequential to amendment to section 51. Section 6, subsection (3) presently reads:

(3) In a municipal district (not later than six weeks after the first Saturday in November) the reeve shall be elected annually by the councillors from among their own number.

6. Section 10, clauses (d) and (e) presently read:

10. To be eligible to become a member of the council a person must be

(d) a resident of the city, town or village for the 12 consecutive months immediately preceding nomination day,

(e) a resident in the electoral division of the municipal district for which he is nominated for the 12 consecutive months immediately preceding nomination day, and

7. *Section 12 is amended*

(a) *as to subsection (1), clause (b) by striking out the words "the council or",*

(b) *as to subsection (2), clause (b) by striking out the words "the council or" and by substituting the word "a",*

(c) *by adding the following subsections after subsection (2):*

(3) Notwithstanding subsections (1) and (2) a judge,

(a) who has declared a person to be disqualified may reduce the period of disqualification, or

(b) to whom application is made under subsection (4), may, upon hearing the application and such evidence either oral or by affidavit as he requires,

(i) by order, reduce the period of disqualification, or

(ii) refuse the order, with or without costs.

(4) A person

(a) described in subsection (1), clause (a), or

(b) described in subsection (2), or

(c) who was declared disqualified by the council or a judge of the Supreme Court or a district court prior to the coming into force of this subsection,

may apply to a judge for an order reducing the period of disqualification under this section.

(5) An appeal against the decision of a judge under this section lies to the Appellate Division of the Supreme Court and the proceedings appertaining thereto shall be as nearly as possible the same as in an appeal in other cases from a decision of a judge.

8. *Section 34 is amended as to subsection (1) by striking out clause (b) and by substituting the following clause:*

(b) he is a Canadian citizen or British subject and has resided in Alberta for the six consecutive months immediately preceding nomination day and was resident in the municipality on nomination day.

7. Section 12 presently reads:

12. (1) A person having been a member of a council
- (a) who resigned his seat on the council if the resignation would have the effect of him avoiding the making of restitution for any money received by him in contravention of this Act, or
 - (b) who was declared by the council or a judge to be disqualified
- is not eligible to become a member of the same council until after two general elections have occurred following the date on which he resigned or was declared disqualified.
- (2) A person having been a member of a council at a time when he was disqualified as a member of the council because of any matter or thing mentioned in section 11, but
- (a) who did not resign his seat on the council, or
 - (b) who was not declared disqualified by the council or judge
- because of that matter or thing is not eligible to become a member of the same council until after two general elections have occurred following the date on which he ceased to be disqualified because of that matter or thing.

8. Section 34, subsection (1), clause (b) presently reads:

34. (1) A person is qualified to vote as an elector for mayor and councillors at an election in a municipality if he is of the full age of 18 years on or before polling day and
- (b) he is a Canadian citizen or British subject and has continuously resided in the municipality for 12 months immediately preceding polling day.

9. *Section 36 is struck out.*

10. *Section 39, subsection (2), clause (a) is amended by striking out subclause (iii) and by substituting the following subclause:*

(iii) has or will have resided in Alberta for the six consecutive months immediately preceding nomination day and is or will be resident in the municipality on nomination day;

11. *Section 39.1 is amended by adding the following subsection after subsection (5):*

(6) When a by-law is passed under this section, sections 98, 99 and 100 do not apply in the municipality.

12. *Section 42 is amended*

(a) *by striking out subsection (2) and by substituting the following subsection:*

(2) The list of electors shall be arranged alphabetically according to wards or electoral divisions or polling divisions.

(b) *by striking out subsections (4), (5) and (6) and by substituting the following subsections:*

(4) Where an elector is resident in a ward or electoral division or polling division, his name shall be entered on the list of electors for that ward or electoral division or polling division.

(5) Where an elector is not resident within the municipality, his name shall be entered on the list of electors for the ward or electoral division or polling division in which the land in respect of which he is qualified is situated.

(6) Where an elector who is not resident within the municipality is qualified in respect of land in more than one ward or electoral division or polling division his name shall be entered on the list of electors for the ward or electoral division or polling division, in which his assessment is highest, or, in the case of equality of assessment, his name shall be entered on the list of electors for the ward or electoral division or polling division that bears the lower or lowest number, as the case may be.

(c) *as to subsection (7) by striking out clause (b) and by substituting the following clause:*

(b) who have or will have resided in Alberta for the six consecutive months immediately preceding nomination day and who were or will be resident in the municipality on nomination day, and

9. Section 36 and section 42 of the Act are being merged into new section 42. Section 36 presently reads:

36. (1) Where wards or electoral divisions have been established in a municipality, the list of electors shall be arranged alphabetically according to wards or electoral divisions.

(2) Where an elector is resident in a ward or electoral division, his name shall be entered on the list of electors for that ward or electoral division only.

(3) Where an elector is not resident in the municipality, his name shall be entered on the list of electors for the ward or electoral division in which the land in respect of which he is qualified is situated.

(4) Where an elector who is not resident within the municipality is qualified in respect of land in more than one ward or electoral division, his name shall be entered on the list of electors for the ward or electoral division in which his assessment is highest, or in the case of equality of assessment, his name shall be entered on the list of electors for the ward or electoral division that bears the lower or lowest number as the case may be.

10. Section 39 (2) (a) (iii) presently reads:

(2) The council may prescribe regulations and forms governing the enumeration of the electors and unless otherwise provided the enumeration shall be conducted as follows:

(a) in each year in which a vote for a general election is required each enumerator shall visit each place of habitation in the area assigned to him and shall record the name and address of each person residing therein who

(iii) has continuously resided in the municipality or in an area annexed to the municipality during the period commencing 12 months immediately preceding the date of the next election and continuing to the date of enumeration;

11. Section 39.1 presently reads:

39.1 (1) Notwithstanding anything in this Act, a municipality may by by-law provide that it is unnecessary to complete a list of electors.

(2) If a council passes a by-law pursuant to subsection (1) every proprietary elector and every elector shall subscribe to a declaration, in the form prescribed by the Minister, that he is qualified to vote as an elector or as a proprietary elector, as the case may be, and any person subscribing to the declaration shall be permitted to vote.

(3) Every declaration shall be subscribed in the presence of the officer presiding at the poll.

(4) A by-law, pursuant to subsection (1) shall be passed not later than one week following nomination day and in the case of a vote on a question or by-law not later than three weeks prior to the date fixed for voting on the question or by-law.

(5) A by-law passed pursuant to this section shall remain in effect until repealed.

12. Section 42, subsections (2), (4), (5) and (7), clause (b) presently read:

(2) The list shall be arranged according to the polling divisions fixed by the council and the names thereon shall be in alphabetical order according to each polling division.

(4) Where an elector is resident in a polling division in the municipality his name shall be entered on the list of electors in that division only.

(5) Where an elector is not a resident within the municipality his name shall be entered on the list of electors in the division in which the land in respect of which he is qualified is situated.

(7) The municipal secretary shall also enter upon the the list of electors the names, in alphabetical order, of all persons whose names do not already appear on the list but

(b) who have continuously resided in the municipality or in an area annexed to the municipality during the period commencing 12 months immediately preceding the date of the next election, and

13. Section 47, subsection (1), clause (a) is amended by striking out the word "and" and by substituting the words "unless the council directs that a new list of electors be prepared, and"

14. Section 51 is amended by striking out subsection (1) and by substituting the following:

51. (1) Nomination day for a general election in a city, town, municipal district or village is the third Wednesday in September in the year in which the election is to be held.

15. Section 54, subsection (1), clause (b) is amended by striking out subclauses (i), (ii) and (iii) and by substituting the following subclauses:

- (i) that he is eligible to be elected to the office, and
- (ii) that he will accept the office if elected,

16. Section 63 is amended by striking out subsection (2) and by substituting the following subsection:

- (2) The by-law shall contain the procedures to be followed
 - (a) in the taking of the votes by any of the means provided in subsection (1), and
 - (b) in the counting, by machine or otherwise of the votes taken by any of the means provided in subsection (1),

which procedures shall as nearly as possible follow the provisions of this Act.

17. Section 99, subsection (1), clause (c) is amended by striking out subclause (ii) and by substituting the following subclause:

- (ii) he has resided in Alberta for the six consecutive months immediately preceding nomination day and was resident in the municipality on nomination day,

18. The following section is added after section 106:

106.1 (1) A council may by by-law provide for the attendance of deputy returning officers at places of residence of electors, during the hours in which an advanced poll is open or such other time as may be fixed by the council, in order to take votes of electors who are unable to attend a polling place or an advance polling place to vote because of physical incapacity.

(2) Where a by-law has been passed under subsection (1), an elector who is unable to attend a polling place or an advance polling place to vote because of his physical incapacity may apply in writing to the returning officer to have a

13. Section 47 (1) (a) presently reads:

47. (1) Notwithstanding anything in this Act or any other Act, if a by-election is required or a vote on a question or a by-law is to be held at a date other than the date fixed for a general election

- (a) the list of electors prepared pursuant to this Act shall continue to be the list of electors until six months prior to the date fixed for polling for the next general election, and

14. To provide that all municipalities, other than summer villages, will hold nominations, and subsequent elections (s. 18) on the same dates. Section 51, subsection (1) presently reads:

51. (1) Nomination day for a general election

- (a) in a city, town or village is the third Wednesday in September, and
- (b) in a municipal district is the last Wednesday in October, in the year in which the election is to be held.

15. Eligibility is covered by section 10 of the Act. Section 54, subsection (1), clause (b) presently reads:

54. (1) Every nomination of a candidate for an elective office

- (b) shall be accompanied by a written acceptance signed by the person nominated, stating
 - (i) that he resides in and has continuously resided in the municipality for the 12 months immediately prior to nomination day,
 - (ii) that he is qualified to be elected to the office, and
 - (iii) that he will accept the office if elected, and

16. Section 63, subsection (2) presently reads:

(2) The by-law shall contain the procedures to be followed in the taking of the votes by any of the means provided in subsection (1), which procedures shall as nearly as possible follow the provisions of this Act.

17. Section 99, subsection (1), clause (c) subclause (ii) presently reads:

99. (1) If a person

- (c) whose name is not on the list of electors of the polling division in which he actually resides presents himself for the purpose of voting and claims he is entitled to vote because
 - (ii) he has continuously resided in the municipality or in an area annexed to the municipality for 12 consecutive months immediately preceding election day

the deputy returning officer shall place the person's name upon the list and permit him to vote if he takes the oath or affirmation in the prescribed form.

18. To provide for the taking of votes of incapacitated electors by the attendance of deputy returning officers at the electors' residence.

deputy returning officer attend at his place of residence to take his vote but such application shall be made in the form and within the time fixed by the by-law.

(3) Where the returning officer is satisfied that an elector is unable to attend a polling place or an advance polling place because of physical incapacity, he shall include that elector's name on a list to be prepared by him.

(4) The list shall be arranged alphabetically according to wards or electoral divisions and shall contain

- (a) the name of each elector,
- (b) the address of each elector's place of residence,
- (c) an indication as to whether the elector is a public or separate school supporter,
- (d) the number of the polling division in which the elector is entitled to vote, and
- (e) any other information which the returning officer considers necessary.

(5) When the returning officer has completed the list in accordance with this section, he shall

- (a) advise each applicant in writing that his application has been accepted or rejected, as the case may be, and in the event of rejection, give reasons therefor;
- (b) inform electors whose applications have been accepted of the approximate time at which the deputy returning officer will attend at the elector's place of residence;
- (c) appoint sufficient deputy returning officers to give full effect to the provisions of this section.

(6) All attendances by deputy returning officers under this section shall be made during the hours in which advance polls are open or such other time as may be fixed by the council and no vote shall be taken at any other time.

(7) All proceedings that, in the opinion of the returning officer, are necessary or expedient to give full effect to the provisions of this section shall be deemed to be authorized notwithstanding any inconsistencies that may arise between this section and any other provision of this Act.

(8) Where there are wards or electoral divisions in a municipality, the deputy returning officer shall maintain separate ballot boxes for each ward or electoral division of the municipality.

(9) A by-law passed under this section shall remain in force until repealed.

(10) All the provisions of this Act apply, so far as they are applicable, to the taking of votes under this section and to all proceedings in connection therewith or incidental thereto.

19. *The following section is added after section 155:*

155.1 (1) Where, under section 155, the City of Calgary and a school board in the City of Calgary are using the proportional representation system of voting, the council may by by-law and the school board may by resolution discontinue the use of that system.

(2) A by-law or resolution under subsection (1) does not require the assent of the electors.

(3) Upon the passage of a by-law or resolution under subsection (1), ballots for the next ensuing general elections and by-elections shall be marked in accordance with this Act or *The School Election Act*, as the case may be.

20. *The Municipal Government Act is amended*

(a) *as to section 10, subsection (1) by striking out clause (a),*

(b) *as to section 34 by striking out subsection (1) and by substituting the following subsections:*

34. (1) At a general election in a municipality the mayor and councillors shall be elected for a three year term of office.

(1.1) The term of office of the mayor and councillors, except in the case of summer villages, shall

(a) commence at the organizational meeting of the council following the general election, and

(b) unless their office is sooner vacated, continue to the organizational meeting of the council following the next ensuing general election.

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

19. To enable the City of Calgary and the Calgary Public and Separate School Boards to discontinue using the proportional representation system. Section 155 presently reads:

155. Notwithstanding anything in this Act or The School Election Act, a school board in the City of Calgary, and the City of Calgary may continue to have and to exercise the power of

- (a) arranging the list of proprietary electors in alphabetical order for the city as a whole in lieu of arranging it in alphabetical order according to each polling division, and
- (b) using the proportional representation systems and such of the existing election practices and procedures as are required to implement or are related or incidental to the proportional representation system for the election of mayor, aldermen and school trustees.

20. Consequential to amendment to section 4 of The Municipal Election Act. Section 10, subsection (1), clause (a) and section 34, subsection (1) of The Municipal Government Act presently read:

10. (1) All the provisions of this Act that apply to villages apply to summer villages, except that in a summer village

- (a) three councillors shall be elected annually,

34. (1) At a general election in a municipality, other than a summer village, the mayor and councillors shall be elected for a three year term to hold office.

- (a) commencing at the organizational meeting of the council following that general election, and
- (b) unless their office is sooner vacated, continuing to the organizational meeting of the council following the next ensuing general election.