

1975 Bill 220

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Fourth Session, 17th Legislature, 24 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 220**

AN ACT TO AMEND THE MUNICIPAL ELECTION ACT

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MR. WILSON

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First Reading .....

Second Reading .....

Third Reading .....

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*Bill 220*  
*Mr. Wilson*

## **BILL 220**

1975

### **AN ACT TO AMEND THE MUNICIPAL ELECTION ACT**

*(Assented to \_\_\_\_\_, 1975)*

**H**ER 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 126, subsection (1) is amended*

*(a) by adding the word "city," before the words "town, village or municipal district"; and*

*(b) by deleting the word "may" after the words "returning officer" and substituting therefore the word "shall".*

*3. Section 132 is struck out and the following section is substituted therefor:*

**132.** (1) At any time within 15 days from the time of the declaration of the result of an election by the returning officer, any elector may apply to the district court for a recount of the votes given at the election.

(2) The Lieutenant Governor in Council may by regulation prescribe the form of an application under this section.

*4. Section 133 is amended by striking out the words "At least three days prior to the application, a copy of the notice of motion and the affidavit filed" and by substituting the words "At least three days prior to the date fixed for the hearing of the application, a copy of the application".*

*5. Section 142 is struck out and the following section is substituted therefor:*

**142.** (1) Subject to subsections (2) and (3), the costs, charges and expenses of and incidental to an application for a recount and to the proceedings consequent thereon shall be paid by the municipality concerned.

## Explanatory Notes

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

**2.** Section 126 (1) presently reads:

126. (1) If in a town, village or municipal district a candidate is dissatisfied with the result of the voting as shown by the duplicate statement of the officer presiding at any polling place, and shows reason for his dissatisfaction, then the returning officer may

- (a) break the seals of the ballot box delivered to him by the officer presiding at that polling place, and
- (b) proceed to count the ballot papers contained therein in the same manner as the officer presiding at the polling place is directed to do.

**3.** Section 132 presently reads:

132. (1) At any time within 15 days from the time of the declaration of the result of an election by the returning officer, any elector may apply to the district court by notice of motion for a recount, after the elector has

- (a) filed an affidavit with the clerk of the court that the returning officer or a deputy returning officer or other officer, in counting the votes given at the election, improperly counted or rejected ballot papers, and
- (b) deposited with the clerk of the court the sum of \$300 as security for the payment of costs and expenses.

(2) The deposit of \$300 shall not be paid out by the clerk without the order of the judge.

The amendment is aimed at simplifying the procedure for a judicial recount and to remove the burden of a \$300 deposit.

**4.** Consequential upon the recasting of Section 132.

**5.** Section 142 presently reads:

142. (1) All costs, charges and expenses of and incidental to an application for a recount, and to the proceedings consequent thereon, shall be defrayed by the municipality and the parties to the application, or any of them, in such manner and in such proportion as the judge determines regard being had to any costs, charges or expenses that, in the opinion of the judge, have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the applicant or the respondent.

(2) The costs may, if the judge so orders, be taxed in the same manner and according to the same principles as costs are taxed between solicitor and client.

(2) Where the difference between the number of votes cast in favour of the candidate declared elected and the number of votes cast in favour of the candidate having the second highest number of votes is greater than 2 per cent of the total number of votes cast in the election, the costs, charges and expenses referred to in subsection (1) shall be paid by the municipality and the parties to the application, or any of them, in such manner and in such proportion as the court may determine.

(3) In making a determination under subsection (2), the court shall have regard to those costs, charges and expenses that have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part of either the applicant or any of the respondents.

(4) The costs of the application may, if the court so orders, be taxed on the same basis as solicitor and client costs.

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