

1977 Bill 227

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 227

**AN ACT TO REGULATE ELECTION CONTRIBUTIONS AND
ELECTION EXPENSES**

MR. NOTLEY

First Reading

Second Reading

Third Reading

Bill 227
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AN ACT TO REGULATE ELECTION CONTRIBUTIONS AND ELECTION EXPENSES

(Assented to _____, 1977)

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

1. The Election Act is hereby amended.

2. Sections 158, 159, 160 and 161 are struck out and the following sections substituted therefor:

158.1 In Sections 158.1 to 161,

- (a) "campaign period" means the period commencing with the issue of a writ for a general election and terminating 120 days following polling day;
- (b) "chief agent" means the agent of a registered political party;
- (c) "Commission" means Commission on Election Contributions and Expenses;
- (d) "constituency association" means the association or organization endorsed by a registered political party as the official association or organization of that party in an electoral division;
- (e) "contribution" means money, goods or services or any combination thereof given, loaned, pledged or guaranteed by a contributor to a political party, constituency association or candidate registered under this Act and
 - (i) the value of goods or services in a contribution shall
 - (A) where the contributor of the goods or services is in the business of supplying such goods or services, be deemed equal to the lowest amount charged by him for an equivalent amount of those goods or services at or about the time they were contributed, or
 - (B) where the contributor of the goods or services is not in the business of supplying such goods or services be deemed to be

the lowest amount charged for an equivalent amount of the same goods or services by a supplier thereof in the area where the goods and services were contributed;

- (ii) promotional advertising done with the knowledge and consent of a political party, constituency association or candidate registered under this Act shall be deemed to be a contribution of the value of the normal charge for such promotional advertising;
- (iii) for the purposes of this clause contribution shall include
 - (A) the amount of all membership fees and dues paid to a political party or constituency association and where a membership in a registered political party is divided or allocated among one or more registered constituency associations the political party shall maintain a written account of such divisions or allocations, which shall be deemed a contribution to the registered constituency association,
 - (B) the profit of any event, sale or service which accrues to a registered political party, constituency association or candidate,
 - (C) any money, goods or services used by a registered candidate from his own funds or personal possessions which are not personal expenses within the meaning of this Act, and
 - (D) contributions by any member of a trade union through payroll deductions which are collectively contributed by the union but shall not include
 - (E) voluntary, unpaid labour or services provided by an individual to a political party, constituency association or candidate registered under this Act.
- (f) "contributor" means any person who makes a contribution directly or indirectly to a candidate, a constituency association or a political party;
- (g) "electoral division agent" means the agent of a registered constituency association;
- (h) "expense" means
 - (i) amounts paid, or
 - (ii) liabilities incurredfor the purpose of promoting or opposing, directly or indirectly, a registered political party, or the election of a registered candidate, including but not limited to the costs of

- (iii) promotional advertising,
 - (iv) acquiring the services of any person, including remuneration and expenses paid to him or on his behalf,
 - (v) the hire of premises,
 - (vi) travel and lodging expenses of speakers, advisors or volunteer workers,
 - (vii) the acquisition and distribution of literature, posters, signs, audio or visual materials including film, tape, records or other materials or devices designed to advertise or promote a candidate, constituency association or political party,
 - (viii) all expenses paid or incurred during or prior to the campaign period, whether before or after this Act comes into force, for any items within the meaning of subclause (vii) which are used during the campaign period
but shall not include the necessary costs of holding periodic conventions of members of a registered political party or of a registered constituency association when such conventions are not held during a campaign period, or of holding a convention for the selection of a candidate in an electoral division.
- (i) "official agent" means the agent of a registered candidate;
 - (j) "personal expenses" of a registered candidate means
 - (a) travelling expenses, and
 - (b) living expenses for food and lodging within the candidate's electoral division and the onus for showing that such personal expenses were fair, reasonable, proper and not in excess of what is ordinarily paid for similar services shall be upon the candidate.
 - (k) "political agent" refers to any chief agent, electoral division agent or official agent;
 - (l) "promotional advertising" includes
 - (i) advertising by any broadcast media,
 - (ii) outdoor advertising, and
 - (iii) advertising by any printed media which promotes or opposes, directly or indirectly, any political party or constituency association or the election of any candidate, registered under this Act, but does not include bona fide news broadcasts or reports which were paid for by the broadcasting or reporting medium;
 - (m) "registered" means registered pursuant to this Act.

158.2 (1) Every contribution by an unincorporated association or organization, except a trade union, shall be recorded individually showing the name of and amount given by every contributor who has contributed to that association or organization on the understanding that such contribution would be forwarded in whole or in part to a political party, constituency association or candidate registered under this Act.

(2) Every corporation or unincorporated organization or association which is constituted solely or in part for the purpose of soliciting or receiving contributions for any political party, constituency association or candidate registered under this Act shall prepare and maintain a written record of the individual sources of and the amounts constituting such contributions.

(3) No person shall contribute to any political party, constituency association or candidate money, goods or services not belonging to him unless furnished to him by a contributor for the purpose of making a contribution thereof in the contributor's name and when a political agent learns of such a contribution he shall promptly refuse the contribution or return an amount equal to the contribution to the person.

(4) Every anonymous contribution, except a contribution of \$20 or less made at a fund-raising event, received by a political agent of a political party, constituency association or candidate registered under this Act shall be returned to the donor or remitted to the Commission.

(5) No contribution shall be knowingly solicited from or received by any person from

- (a) an individual normally resident outside Alberta,
- (b) a corporation or firm that does not carry on business in Alberta,
- (c) a trade union without members in Alberta, or
- (d) an unincorporated association or organization without members in Alberta

and when a political agent learns of such a contribution he shall promptly refuse or return the contribution or an amount equal to the contribution to the contributor.

(6) Any person receiving a monetary contribution in excess of \$10 shall give a written receipt thereof showing

- (a) the name and address of the contributor,
- (b) the signature of the contributor,
- (c) the name and address of the political agent, and
- (d) the signature of the political agent.

(7) No person shall charge a political party, constituency association or candidate registered under this Act or a person acting with its or his knowledge or consent a rate for promotional advertising that will, pursuant to section 158.1 be a contribution, that exceeds the lowest rate charged by him for any equivalent amount of promotional advertising to any other political party, association or candidate or person acting with its or his knowledge or consent.

158.3 (1) A commission is hereby established to be known as the Commission on Electoral Contributions and Expenses, composed of

- (a) two persons as nominees of each registered political party, on the recommendation of that party subject to the approval by resolution of the Legislative Assembly, for a term of not more than five years;
- (b) the Clerk of the Legislative Assembly,
- (c) two returning officers, appointed from among all returning officers by resolution of the Legislative Assembly, for a term of not more than five years, and
- (d) a Chairman appointed from among the other members by resolution of the Legislative Assembly for a term of not more than ten years.

(2) The Commission shall meet on the call of the chairman or of seven more members.

(3) A majority of no less than six members of the Commission including the chairman shall constitute a quorum.

(4) The chairman and the other members of the Commission, except the Clerk of the Legislative Assembly may receive such salary and expenses and the Commission may employ such staff and acquire such services and supplies as may be provided for by a separate appropriation by the Legislature.

(5) The Commission, in addition to its other powers and duties under this Act, shall

- (a) provide procedures and prescribe forms for and assist political parties, constituency associations and candidates to register under this Act,
- (b) provide procedures and prescribe forms for and assist political parties, constituency associations and candidates registered under this Act in the preparation of the financial returns required by this Act,
- (c) ensure that every political party, constituency association and candidate registered under this Act has the appropriate political agent and the appropriate auditing facilities in order to properly comply with the provisions of this Act,

- (d) examine all financial returns filed with the Commission,
 - (e) conduct periodic investigations and examinations of the financial affairs and records of political parties, constituency associations and candidates registered under this Act specifically in relation to campaign periods,
 - (f) report to the Attorney General any apparent contraventions of the Act, with such report requiring the approval of a majority and not less than seven of the Commissioners,
 - (g) cause to be published a summary of the election contributions and election expenses of each political party, constituency association and candidate registered under this Act, and submit annually and after every campaign period to the Speaker of the Legislative Assembly a report, which the Speaker shall forthwith table in the Legislative Assembly or if the Legislative Assembly is not then sitting within 15 days of the commencement of the next sitting.
- (6) For the purposes of any investigation or examination pursuant to this section,
- (a) the Commission has the powers of a commission under *The Public Inquiries Act*,
 - (b) a representative of the Commission, upon production of an authorization from the Commission, has the power to enter the premises referred to in the authorization in which records of a political party, constituency association or candidate registered under this Act, relevant to the subject matter of the investigation or examination, are kept and to examine and take away copies of such records, and
 - (c) the Commission may request information with respect to the affairs of a political party, constituency association or candidate registered under this Act, that is reasonably required in respect of its duties under this Act, and such information shall be provided within 30 days after receiving a written request therefore from the Commission or within such extended period as the Commission may determine.

- 158.4** (1) The Commission shall maintain a registry of
- (a) political parties, setting out
 - (i) the full name of that party,
 - (ii) the party name and abbreviation, if any, of the party name to be shown in any election documents,

- (iii) the name and address of the leader of the party,
 - (iv) the name and address or the names and addresses of
 - (A) the office or offices of the party where the records of the party are maintained and to which communications may be addressed,
 - (B) the chief agent of the party, and
 - (C) the financial institution or institutions lawfully authorized by the party for the deposit of contributions and for withdrawal of expenses,
 - (v) the name or names of the constituency associations of the party, and the information referred to in clause (b), and
 - (vi) the name or names of the candidates of the party, and the information referred to in clause (c);
- (b) constituency associations, setting out
- (i) the full name of that constituency association and of the political party by which it is endorsed,
 - (ii) the name and address or names and addresses of
 - (A) the place or places where the records of the constituency association are maintained and to which communications may be addressed,
 - (B) the electoral division agent or agents of the constituency association, and
 - (C) the financial institution or institutions lawfully authorized by the constituency association for the deposit of contributions and for the withdrawal of expenses,
 - (iii) the name of the candidate of the constituency association, and the information referred to in paragraph (C) of subclause (ii) with relation to the candidate and
- (c) candidates, setting out
- (i) the full name and address of that candidate and of the political party and constituency association by which he is endorsed, and if the candidate is endorsed by no political party the political affiliation of the candidate shall be described by the word "independent",
 - (ii) the name and address or names and addresses of
 - (A) the place or places where the records of the candidate in relation to a campaign

period are maintained and to which communications may be addressed,

(B) the official agent or agents of the candidate, and

(C) the financial institution or institutions lawfully authorized by the candidate for the deposit of contributions and for the withdrawal of expenses for the purposes of a campaign period.

(2) Any political party that

(a) held a minimum of three seats in the Legislative Assembly following the most recent general election,

(b) nominated or nominates candidates in at least twenty of the electoral divisions in the most recent general election or following the issue of a writ for a general election, or

(c) at any time other than during a campaign period provides the Commission with the names, addresses and signatures of 2,000 eligible voters attesting to the registration of the political party concerned,

and the constituency associations and any of the candidates of a political party meeting such requirements may apply to the Commission for registration under this Act.

(3) Any candidate shall be deemed registered upon the filing of his nomination papers.

(4) An application for registration by a political party pursuant to subsection (2) shall include

(a) the information referred to in subsection (1), and,

(b) a statement satisfactory to the Commission of the assets and liabilities of the political party, the constituency associations and any of the candidates of that party as of a date not earlier than 90 days prior to the date of application for registration with such statement certified by a political agent or agents.

(5) Upon receipt of an application for registration pursuant to subsection (2), the Commission shall examine the application and within thirty days determine if

(a) the political party and the constituency associations and any of the candidates of that party, or

(b) the independent candidate and constituency association

can be registered, and

(c) if so, enter it in the register and so inform the applicant, or

(d) if not, so inform the applicant with written reasons for its determination.

(6) Where any of the information referred to in subsection (1) becomes incorrect by change of circumstances the political party, constituency association or candidate registered under this Act shall notify in writing the Commission within 30 days of such change and, upon receipt of any such notice the Commission shall correct its register accordingly.

(7) Where any change results in a registered political party, constituency association or candidate losing the right to registration the Commission may cancel the registration.

(8) Where the registration of a political party is cancelled, the registration of the constituency associations and candidates of that party is thereby also cancelled.

(9) No candidate and no person acting on his or his behalf shall

(a) solicit or accept contributions, or

(b) incur or pay any expense

until the political party, constituency association or candidate is registered under this Act.

(10) No political party, constituency association or candidate registered under this Act and no person acting on its or his behalf shall

(i) accept contributions; or

(ii) incur or pay any expense

except through the political agent or agents of the said political party, constituency association or candidate.

(11) Subsection 10 shall not apply to any expenses paid by a registered candidate for his personal expenses which in the aggregate do not exceed

(a) \$250 in an urban electoral division, or

(b) \$1,000 in a rural electoral division,

during a campaign period but a candidate paying such personal expenses shall provide his official agent with a detailed account of such personal expenses.

(12) All contributions in the form of monies accepted and all expenses paid by or on behalf of a political party, constituency association or candidate shall be deposited into or paid out of only those financial institution or institutions on record with the Commission.

(13) The political agent of a political party, constituency, association or candidate registered under this Act, in

reference to the financial affairs of the political party, constituency association or candidate which or who appointed him shall be responsible for ensuring that

- (a) proper records are kept of all contributions and all expenditures, including keeping all appropriate receipts, vouchers, invoices and bills,
 - (b) all contributions in the form of monies and all expenses are deposited or paid out of institutions on record with the Commission,
 - (c) all contributions in the form of donations of goods or services are valued and recorded in accordance with this Act, and,
 - (d) the financial returns and auditor's report required by this Act are filed with Commission in accordance with this Act.
- (14) No unregistered political party shall
- (a) solicit or accept contributions in excess of \$10,000 during or for an election campaign, or
 - (b) solicit or accept contributions in excess of \$10,000 during any single fiscal year, excluding funds solicited or accepted pursuant to clause (a).

159.1 Each chief agent, electoral division agent and official agent shall, for each and every contribution in excess of \$20 record the name and address of the contributor and the amount of the contribution and shall record whether the contribution is to defray expenses incurred for purposes of an election campaign or for purposes outside of an election campaign.

159.2 (1) The chief agent of every political party, the electoral division agent of every constituency association and the official agent of a candidate registered under this Act, shall record

- (a) the amounts of money expended as election expenses, and
- (b) the amounts of money expended during a period or for purposes outside of an election campaign with all expenses referred to in clause (a) recorded separately from all expenses referred to clause (b).

(2) Every expense referred to in subsection (1) shall be itemized according to the categories listed in section 158.1 clause (h).

159.3 The contributions of a single contributor shall not exceed in the aggregate

- (a) in any year,
 - (i) \$1,000 to registered political parties, and
 - (ii) \$200 to registered constituency associations and candidates, and

- (b) in any campaign period,
 - (i) \$1,000 to registered political parties, and
 - (ii) \$200 to registered constituency associations and candidates

and any contribution or contributions violating this section shall be returned to the contributor within 30 days of notice of the violation.

159.4 Expenses during or for the purpose of an election campaign shall not exceed

- (a) for a registered political party, 25 cents multiplied by the number of electors in all of the electoral divisions in which the political party has a registered candidate, and
- (b) for a registered candidate and his constituency association in the electoral division where he is a candidate, the combined total of
 - (i) \$1 for each elector for the first 5,000 electors in the electoral division,
 - (ii) 75 cents for each elector for the second 5,000 electors in the electoral division,
 - (iii) 50 cents for every elector in the electoral division over 10,000, and
 - (iv) in a rural electoral division, 50 cents for each elector in the electoral division, in addition to such sums as may be determined by subclauses (i), (ii) and (iii).

159.5 (1) The chief of every registered political party, the electoral district agent of every registered constituency association and the official agent of every registered candidate shall transmit to Commission within two months after polling day a return in respect of

- (a) election contributions referred to in section 159.1, and
- (b) election expenses referred to in section 159.2.

(2) By a date prescribed by the Commission after the end of every fiscal year every registered political party shall transmit to the Commission a return in respect of

- (i) annual contributions referred to in section 159.1, and
- (ii) annual expenditures referred to in section 159.2 in a form prescribed by the Commission and accompanied by the auditor's report subject to subsection (3) of section 159.6.

159.6 (1) The financial returns required under section 159.5 shall be subject to an audit for each political party, constituency association and candidate registered under this Act.

(2) No returning officer, election clerk, candidate or political agent shall act as an auditor.

(3) The auditor shall make a written report to the political agent of the registered political party, registered constituency association or registered candidate which or who appointed him, in respect of the returns required under section 159.5, and shall make such examination as will enable him to state in his report whether in his opinion the financial return presents fairly the information contained in the accounting records on which the return is based, making such statements as he considers necessary in any case where

- (a) he has not received from the political agent all of the information and explanation which he required, or
- (b) proper accounting records have not been kept by the political agent so far as appears from the examination.

(4) The Auditor shall have access at all reasonable times to all records, documents, books and accounts of the registered political party, registered constituency association or registered candidate which or who appointed him, and is entitled to require from the political agent such information and explanation as in his opinion may be necessary to enable him to report as required under subsection (3).

(5) The report referred to in subsection (3) shall be submitted to the Commission with the return required under section 159.5.

160.1 (1) The Commission shall publish two weeks after receipt

- (a) in a newspaper or newspapers having general circulation in more than one electoral division in Alberta a summary of the aggregate of all contributions to and expenses by each political party and all of its constituency associations and candidates
 - (i) during or for an election campaign pursuant to subsection (1) of section 159.5, and
 - (ii) during or for the annual fiscal period pursuant to subsection (2) of section 159.5, and
- (b) in a newspaper having general circulation in each electoral division a summary of the aggregate of all contributions to and expenses by each constituency association and its candidate during or for an election campaign pursuant to subsection (1) of section 159.5.

(2) The Commission shall maintain all returns, accompanying documents and auditor's reports submitted to it pursuant to section 159.5 and subsection (3) of section

159.6 for a period of not less than five years and permit any elector during normal business hours to examine them and to make copies thereof.

(3) The Chairman of the Commission shall submit a detailed report to the Speaker of the Legislative Assembly relating to contributions to and expenses

(a) by each political party, constituency association and candidate during or for an election campaign pursuant to subsection (1) of section 159.5, and

(b) by each political party during or for the annual fiscal period pursuant to subsection (2) of section 159.5

and the Speaker shall table such report forthwith in the Legislative Assembly or if the Legislative Assembly is not then sitting within 15 days of the commencement of the next sitting.

(4) Within 120 days of the publication of the summaries of contributions and expenses pursuant to subsection (1), any person who has reason to believe that a provision of the Act has been contravened may in writing file a complaint to that effect with the Commission, and if a majority of the Commission deems the complaint to be adequately documented, the Commission shall carry out such investigation with respect to the said complaint as may be necessary.

160.2 (1) A prosecution for an offence under this Act may be instituted by the Attorney General against a political party or constituency association in the name of the political party or constituency association, and for the purposes of any such prosecution, a political party or constituency association shall be deemed a person.

(2) An act or thing done or omitted by a political agent of a political party, constituency association or candidate within the scope of his authority to act on behalf of the political party, constituency association or candidate shall be deemed an act or thing done or omitted by the said political party, constituency association or candidate.

(3) It shall be an offence

(a) for any political party, constituency association person, corporation, trade union or any other unincorporated association or organization to knowingly and deliberately obstruct an auditor, the Commission or any member thereof or a person with an order from a court of competent jurisdiction making an investigation or examination under this Act or to withhold from him or destroy or conceal any books, papers, documents or other materials relevant to the subject matter of the investigation or examination,

- (b) for any political agent, political party, constituency association or candidate to knowingly and deliberately make a false statement or omit to give a prescribed piece of information in any application, return or other document filed with the Commission under this Act,
- (c) for any person, corporation, trade union or any other unincorporated association or organization other than a trade union to knowingly and deliberately give false information or omit to give a prescribed piece of information to any political agent,
- (d) for any political party, constituency association or candidate to accept contributions or to pay expenses
 - (i) without first having registered under this Act,
 - (ii) without having a political agent to accept the said contributions and to pay the said expenses,
 - (iii) without having nominated an appropriate financial institution or institutions for deposit of the said contributions and for payment of the said expenses, or
 - (iv) which exceed the limits provided by this Act.
- (e) for the political agent of each political party, constituency association and candidate to fail to file the returns required by this Act.
- (f) for a political party, constituency association or candidate to acquiesce in or assent to any offence listed in clauses (a), (b), (c), (d) or (e).

160.3 (1) On summary conviction of an offence under this Act

- (a) every person shall be liable to a fine not exceeding \$1,000,
- (b) every political party shall be liable to a fine not exceeding \$10,000,
- (c) every constituency association shall be liable to a fine not exceeding \$1,000, and
- (d) every corporation, trade union or any other unincorporated association or organization shall be liable to a fine not exceeding \$5,000.

(2) In addition to any other penalties imposed by this Act, on summary conviction for failure to file a return with the Commission pursuant to clause (e) of subsection (3) of section 160.2

- (i) a political party shall be fined \$100 a day, and
- (ii) a constituency association or candidate shall be fined \$25 a day

for each day of delay in filing the said return, and the said political party or constituency association shall have its

registration cancelled if it has not filed the said return within six months of the date such return was due.

(3) Where a political party or constituency association has had its registration cancelled, all monies of the political party or constituency association not required to pay any outstanding debts thereof shall be paid over to the Commission and held by the Commission in trust, and if the said political party or constituency association does not become registered again under this Act within two years following the cancellation of its registration, the monies held in trust shall escheat to the Commission and be applied to the expenses of the Commission.

(4) In addition to any other penalties imposed by this Act, on summary conviction for failure to file a satisfactory return with the Commission pursuant to clause (e) of subsection (3) of section 160.2

(a) a candidate declared elected shall not be entitled to become a member of the Legislative Assembly until such return has been filed, and if the said return has not been filed within six months of the date such return was due, the Commission shall notify the Speaker of the Legislative Assembly, or any two members if there then be no Speaker, who shall declare the seat of the member vacated and shall address a warrant to the Clerk of the Legislative Assembly for the issue of a writ for the election of a member in the place of a member whose seat is so vacated, or

(b) a candidate not declared elected shall be ineligible to stand as a candidate at any election for five years unless prior to such time he has filed the said return.

(5) A political party, constituency association or candidate shall not be entitled to any reimbursement for election expenses possible pursuant to section 161 unless and until its or his political agent has filed a return satisfactory to the Commission pursuant to clause (e) of subsection (3) of section 160.2.

161. The Commission may make recommendations to the Attorney General for provision for the reimbursement in whole or in part of the expenses of political parties, constituency associations and candidates from funds appropriated to that purpose by the Legislature.

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