

1983 BILL 94

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First Session, 20th Legislature, 32 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 94**

**ELECTION AMENDMENT ACT, 1983**

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HON. MR. PAYNE

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 94

1983

### ELECTION AMENDMENT ACT, 1983

(Assented to \_\_\_\_\_, 1983)

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

1 *The Election Act is amended by this Act.*

2 *Section 1 is amended*

(a) *by repealing clause (b) and substituting the following:*

(b) "candidate" means a person

(i) who is elected to serve in the Legislative Assembly,

(ii) who is nominated as a candidate for an electoral division,

(iii) who is nominated by a constituency association of a registered party in an electoral division for endorsement as the official candidate of that party in the electoral division, or

(iv) who, on or after the date of the issue of a writ for an election in an electoral division, declares himself to be an independent candidate at the election in the electoral division;

(b) *in clause (c) by striking out "defined in" and substituting "described in the Schedule to";*

(c) *by repealing clause (f.1) and substituting the following:*

(f.1) "elector" means a person who on

(i) polling day, in the case of an election,

(ii) October 1 of an enumeration year, in the case of a general enumeration, or

(iii) a date fixed by the Chief Electoral Officer, in the case of a special enumeration,

is a Canadian citizen, is 18 years of age or older and is, and has been for at least the immediately preceding 6 months, ordinarily resident in Alberta;

## Explanatory Notes

1 This Bill will amend chapter E-2 of the Revised Statutes of Alberta 1980.

2 Section 1(b), (c), (f.1) and (r) presently read:

*1 In this Act,*

*(b) "candidate" means a person*

*(i) who is a member of the Legislative Assembly,*

*(ii) who is nominated as a candidate for an electoral division, or*

*(iii) who, on or after the date of the issue of a writ for an election or after the dissolution of the Assembly or on the occurrence of a vacancy in consequence of which a writ is issued, is declared by himself or by others to be a candidate;*

*(c) "city electoral division" means the following electoral divisions as defined in the Electoral Divisions Act:*

*Calgary-Bow  
Calgary-Buffalo  
Calgary-Currie  
Calgary-Egmont  
Calgary-Elbow  
Calgary-Fish Creek  
Calgary-Foothills  
Calgary-Forest Lawn  
Calgary-Glenmore  
Calgary-McCall  
Calgary-McKnight  
Calgary-Millican  
Calgary-Mountain View  
Calgary-North Hill  
Calgary-North West  
Calgary-West  
Edmonton-Avonmore  
Edmonton-Belmont  
Edmonton-Beverly  
Edmonton-Calder  
Edmonton-Centre  
Edmonton-Glengarry*

(d) in clause (r) by striking out “defined in” and substituting “described in the Schedule to”.

3 Section 5 as it read before being amended by section 54(3) of the Legislative Assembly Act is amended by repealing subsection (3).

4 Section 14 is amended by striking out “The enumeration” and substituting “Subject to section 14.1, the enumeration”.

5 The following is added after section 14:

**14.1(1)** In this section,

(a) “Commission” means an Electoral Boundary Commission appointed under the *Electoral Boundaries Commission Act*;

(b) “report” means a report of the Commission, including any amendments to the report, laid before the Legislative Assembly under section 9 of the *Electoral Boundaries Commission Act*;

(c) “Schedule” means the Schedule to the *Electoral Divisions Act*.

(2) If a Commission is appointed, the Chief Electoral Officer may, at his discretion, not proceed with an enumeration in the calendar year in which the Commission is established or the calendar year following the calendar year in which the Commission is established.

*Edmonton-Glenora  
Edmonton-Gold Bar  
Edmonton-Highlands  
Edmonton-Jasper Place  
Edmonton-Kingsway  
Edmonton-Meadowlark  
Edmonton-Mill Woods  
Edmonton-Norwood  
Edmonton-Parkallen  
Edmonton-Strathcona  
Edmonton-Whitemud  
Lethbridge-East  
Lethbridge-West  
Medicine Hat  
Red Deer;*

*(f.1) "elector" means a person who*

*(i) is a Canadian citizen,*

*(ii) is of the full age of 18 years, and*

*(iii) has been ordinarily resident in Alberta for at least 6 months immediately prior to polling day;*

*(r) "rural electoral division" means any electoral division defined in the Electoral Divisions Act that is not a city electoral division;*

**3** Section 5 as it presently reads contains two subsections (3). This amendment repeals the old subsection (3).

**4** Section 14 presently reads:

*14 The enumeration shall be conducted during the period of September 15 to September 30*

*(a) in the 2nd calendar year following the year in which the last general election was held, and*

*(b) in each succeeding year if no general election is held in the interim,*

*and shall be followed by a period for revision consisting of the Thursday, Friday and Saturday of the 2nd full week in October.*

**5** Electoral Boundary Commission.

(3) Notwithstanding subsection (2), if before March 1 in a calendar year referred to in subsection (2) the Schedule is amended or re-enacted following the laying of the Commission's report before the Legislative Assembly, an enumeration shall be conducted in that calendar year.

6 *Section 16(3) is amended by striking out "September" and substituting "August".*

7 *Section 26(5) is amended by striking out "3 days" and substituting "5 days".*

8 *Section 41(d) is repealed and the following is substituted:*

(d) persons who have been convicted of an offence and as a result of that conviction are, on polling day,

(i) inmates of a correctional institution under the *Corrections Act* or a penitentiary under the *Penitentiary Act (Canada)* as a result of being sentenced to a term of imprisonment, or

(ii) inmates of a correctional institution under the *Corrections Act* awaiting sentencing for which a term of imprisonment may be imposed.

9 *Section 55(2) is amended by striking out "issued by that registered political party" and substituting "in the prescribed form".*

10 *Section 61(2)(b) is amended by adding "in the prescribed form" after "publish".*

**6** Section 16(3) presently reads:

*(3) During the first week in June in an enumeration year each returning officer shall, by registered letter, communicate a request to the executive of*

*(a) the registered constituency association within his electoral division of the registered political party forming the Government, and*

*(b) the registered constituency association within his electoral division of the registered political party not forming the Government whose candidate received the highest or next highest number of votes, as the case may be, at the immediately preceding election within the electoral division,*

*that written recommendations of qualified and available persons to act as enumerators be provided to the returning officer prior to September 1 of that year.*

**7** Section 26(5) presently reads:

*(5) Within 3 days of the completion of the list of electors the enumerator shall*

*(a) submit all copies of the list and 2 copies of the Record of Name Forms to the returning officer, and*

*(b) return all enumeration materials, including the enumerator's identification badge and completed expense claim, to the returning officer.*

**8** Section 41 presently reads:

*41 The following persons are not eligible to vote at an election:*

*(a) returning officers, except to break a tie at the official count or judicial recount;*

*(b) judges of federal and provincial courts;*

*(c) persons disqualified from voting under this Act;*

*(d) persons who are, on polling day, inmates of penal institutions.*

**9** Section 55(2) presently reads:

*(2) If the person being nominated is to be the candidate of a registered political party, he shall, at the time of filing his nomination paper, file a certificate issued by that registered political party stating that the nominee is the candidate for that registered political party.*

**10** Section 61(2) presently reads:

*(2) On complying with subsection (1), the returning officer shall, as soon as possible,*

*(a) make available a list of the candidates to each candidate or his official agent, and*

11 *Section 67 is amended*

(a) *by repealing subsection (1) and substituting the following:*

**67(1)** For each polling station established in a electoral division the returning officer for that electoral division shall appoint a qualified person as a poll clerk.

(b) *in subsection (4) by striking out “deputy”;*

(c) *in subsection (5) by striking out “deputy”.*

12 *Section 91(1) is repealed and the following is substituted:*

**91(1)** An elector who is otherwise eligible to vote but whose name does not appear on the list of electors for the polling subdivision in which he is ordinarily resident may vote if

(a) he produces to the deputy returning officer identification in the form of any 1 or more of the following:

(i) an Alberta motor vehicle operator’s licence;

(ii) an Alberta health insurance card;

(iii) a Senior Citizen’s Identification Card;

(iv) any identification that is acceptable to the deputy returning officer,

and

(b) he takes and signs the prescribed oath before the deputy returning officer stating that he

(i) qualifies as an elector, and

(ii) ordinarily resides in that polling subdivision.

(1.1) The deputy returning officer before whom an oath is taken under subsection (1) shall indicate on the oath form the nature of the identification accepted.

13 *Section 110 is amended*

(a) *by renumbering it as section 110(1);*

(b) *in subsection (1) by striking out “the returning officer’s office or the place where the advance poll was held” and substituting “a place designated by the returning officer”;*

(c) *by adding the following after subsection (1):*

(2) The returning officer shall advise in writing each candidate or his official agent of the place where the votes from the advance poll will be counted.

*(b) publish the names and addresses of the candidates' official agents in a newspaper of general circulation within the electoral division.*

**11** Section 67(1), (4) and (5) presently read:

*67(1) Each deputy returning officer shall appoint in the prescribed form a person as poll clerk for his polling station.*

*(4) Notwithstanding subsection (3), if there is not a sufficient number of qualified persons available from among those persons resident in the electoral division, the deputy returning officer may appoint as a poll clerk a person resident in an adjacent electoral division who is qualified to be a poll clerk.*

*(5) If a poll clerk is unable or unwilling to act or neglects his duties, the deputy returning officer may appoint another poll clerk in his place, and a copy of the appointment shall be attached to the poll book.*

**12** Section 91(1) presently reads:

*91(1) An elector who is otherwise eligible to vote but whose name does not appear on the list of electors for the polling subdivision in which he is ordinarily resident may vote if*

*(a) he produces to the deputy returning officer satisfactory identification in the form of any one or more of the following, indicating that he ordinarily resides in that polling subdivision:*

*(i) a valid Alberta motor vehicle operator's licence;*

*(ii) an Alberta health insurance card;*

*(iii) a Senior Citizen's Identification Card;*

*(iv) any identification similar to the ones referred to in subclauses (i) to (iii) that is acceptable to the deputy returning officer,*

*and*

*(b) he takes and signs the prescribed oath before the deputy returning officer, who shall sign as witness and shall indicate on the oath form the nature and number of the identification accepted.*

**13** Section 110 presently reads:

*110 After the closing of the polling places on polling day the deputy returning officer of each advance poll and his poll clerk shall attend with the ballot box at the returning officer's office or the place where the advance poll was held and then, in the presence of any of the candidates or their official agents or scrutineers who attend, shall open the ballot box and proceed to count the votes, and sections 108 and 109 apply, with all necessary modifications, to the count.*

14 Sections 113 and 114 are repealed and the following is substituted:

**113**(1) An elector whose name is included on the list of electors for the polling subdivision in which he ordinarily resides and who is unable to vote at an advance poll or at the poll on polling day on account of

- (a) physical incapacity,
- (b) absence from the electoral division, or
- (c) being an inmate, other than an inmate referred to in section 41(d), of a correctional institution under the *Corrections Act*,

may apply to vote in accordance with this section.

(2) An application by an elector under this section may be made to the returning officer of the applicant's electoral division at any time following the issue of the writ and prior to the closing of polls on polling day.

(3) On receipt of an application under this section the returning officer or election clerk shall

- (a) ensure that the applicant's name is on a list of electors for the electoral division,
- (b) enter in a poll book entitled "Incapacitated and Absentee Voters"
  - (i) the elector's name and address, and
  - (ii) the name and number of the polling subdivision in which the elector resides

and

- (c) cause the appropriate forms to be provided to the applicant.

**114** The returning officer shall, on request, make available to any candidate in the electoral division or his official agent the names and addresses of the ordinary residences of those electors in the electoral division who have applied and been provided with the appropriate forms under section 113.

15 Section 115 is amended

(a) by repealing subsection (2)(d) and substituting the following:

(d) complete and sign part 1 of the certificate and seal the certificate envelope,

(b) by repealing subsection (4) and substituting the following:

(4) On receipt of the outer envelope, the returning officer or election clerk shall remove the certificate envelope and determine

**14** Sections 113 and 114 presently read:

*113(1) An elector whose name is included on the list of electors for the polling subdivision in which he ordinarily resides and who is unable to vote at an advance poll or at the poll on polling day because of*

- (a) physical incapacity, or*
- (b) absence from the electoral division,*

*may apply to vote in accordance with this section.*

*(2) An application to vote under this section shall be in the prescribed form and may be obtained from the returning officer of the applicant's electoral division at any time following issue of a writ.*

*(3) The elector shall complete and sign Part 1 of the application and shall have the certificate in Part 2 signed by a sponsor whose name is shown on the list of electors for the same polling subdivision as that of the elector.*

*(4) The application completed in accordance with subsection (3) shall be submitted to the returning officer of the electoral division in which the applicant is entitled to vote in sufficient time to permit it to be acted upon by the returning officer or election clerk.*

*(5) If the returning officer or election clerk is satisfied that an applicant is entitled to vote under this section, he shall*

- (a) forthwith cause the appropriate prescribed forms to be sent to that person,*
- (b) strike the applicant's name from the list of electors for the polling subdivision in which he was entitled to vote, and*
- (c) enter the words "Inc. Voter" for an incapacitated voter or "Abs. Voter" for an absentee voter, as the case may be, opposite the name of the voter struck from the list.*

*(6) The returning officer or election clerk shall record in a separate poll book*

- (a) the name of each person receiving forms pursuant to subsection (5),*
- (b) the polling subdivision in which the person ordinarily resides, and*
- (c) the date of return of the certificate envelope under section 115.*

*114 The returning officer shall, on request, make available to any candidate in the electoral division or his official agent the names and the addresses of the ordinary residences of those persons who have successfully applied as of the date of the request to vote as incapacitated or absentee voters.*

**15** Section 115 presently reads:

*115(1) On receipt of the prescribed forms the voter shall mark the ballot by writing, with a pen or pencil of any colour, in the space provided, the name of the candidate or the registered political party of the candidate of his choice.*

*(2) After marking his ballot the voter shall*

- (a) place the marked ballot in the ballot envelope,*
- (b) seal the ballot envelope,*

(a) whether the name on the certificate envelope is the same as that of an individual already recorded in the Incapacitated and Absentee Voters poll book under section 113, and

(b) that part 1 of the certificate is properly completed.

(4.1) On determining that the voter is recorded in the Incapacitated and Absentee Voters poll book and that part 1 of the certificate is completed, the returning officer or election clerk, as the case may be, shall,

(a) if he is satisfied as to the voter's eligibility to vote,

(i) sign part 2 of the certificate,

(ii) strike the voter's name from the list of electors for the polling subdivision in which he is entitled to vote,

(iii) enter on the list of electors the words "Inc. Voter" in respect of an incapacitated voter or "Abs. Voter" in respect of an absentee voter or an inmate opposite the name of the voter struck from the list of electors,

(iv) record in the Incapacitated and Absentee Voters poll book in the appropriate column the date he received the certificate envelope,

(v) open the certificate envelope, remove the sealed ballot envelope and place the sealed ballot envelope in a sealed ballot box marked "Incapacitated and Absentee Voters",

(vi) enter in the Incapacitated and Absentee Voters poll book in the appropriate column the word "voted", and

(vii) retain the certificate envelope and forward it to the Chief Electoral Officer in accordance with section 140,

or

(b) if he is not satisfied as to the voter's eligibility to vote,

(i) retain the certificate envelope unopened,

(ii) treat the ballot in the envelope as a rejected ballot, and

(iii) mark the certificate envelope accordingly.

16 *The following is added after section 120:*

**120.1(1)** After the closing of the polling places on polling day the deputy returning officer of each treatment centre poll and his poll clerk shall attend with the ballot box at a place designated by the returning officer and then, in the presence of any of the candidates or their official agents or scrutineers who attend, shall open the ballot box and proceed to count the votes, and sections 108 and 109 apply, with all necessary modifications, to the count.



(2) The returning officer shall advise in writing each candidate or his official agent of the place where the votes from the treatment centre poll will be counted.

17 *Section 140(2) is amended by striking out “a the certificate” and substituting “the certificate”.*

18 *The following is added after section 149:*

**149.1** Notwithstanding sections 148 and 149, the Chief Electoral Officer shall provide copies of the writ and the Statement of Official Results for each electoral division to the Provincial Archives of Alberta after each election.

19 *Section 204 is amended by adding the following after clause (c):*

(c.1) prescribing oaths to be used;

20 *Section 206 is amended by striking out “17” and substituting “15”.*

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*In accordance with section 4(1) of the Interpretation Act,  
this Bill comes into force on the date it receives Royal  
Assent.*

**17** Section 140(2) presently reads:

*(2) Notwithstanding subsection (1), if prior to transmitting the documents under subsection (1) the returning officer is served with an originating notice pursuant to section 142(1), he shall retain the documents until he receives a the certificate of the judge under section 145(1), and then he shall forthwith transmit the documents to the Chief Electoral Officer.*

**18** Provincial Archives.

**19** Section 204(c) presently reads:

*204 The Lieutenant Governor in Council may make regulations  
(c) prescribing required forms;*

**20** Corrects a cross-reference.