

1997 BILL 203

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 203

CITIZEN'S INITIATIVE ACT

DR. L. TAYLOR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 203
Dr. L. Taylor

BILL 203

1997

CITIZEN'S INITIATIVE ACT

(Assented to , 1997)

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

Definitions

1(1) In this Act,

- (a) "initiative petition" means a petition for a vote to have a proposed law introduced in the Legislative Assembly;
- (b) "initiative election" means an election held under Part 2 after a successful initiative petition;
- (c) "initiative vote" means the issue which is the subject matter of an initiative election;
- (d) "petitioner" means an individual who signs an initiative petition.

(2) Subject to subsection (1), words and expressions used in this Act have the meanings given to them in the *Election Act*.

PART 1

INITIATIVE PETITIONS

Subject matter
of proposals

2(1) Subject to subsection (2), a proposal for an initiative petition

may be made with respect to any matter within the jurisdiction of the Legislature.

(2) A proposal for an initiative petition shall be rejected if the initiative petition

- (a) requires an expenditure of public funds,
- (b) requires the imposition of a tax or impost, or
- (c) is contrary to the *Canadian Charter of Rights and Freedoms*.

Application for
an initiative
petition

3(1) An elector who wishes to apply for the issuance of an initiative petition shall submit a proposal to the Chief Electoral Officer.

(2) An application for an initiative petition must include

- (a) the name and residential address of the applicant;
- (b) the proposed wording of an initiative petition which must
 - (i) be 25 words or less, and
 - (ii) be written in such a form that it could constitute the basis for an initiative vote if the initiative petition was successful;
- (c) a draft Bill suitable for introduction in the Legislative Assembly which must comply with section 2 and be drafted in a clear and unambiguous manner;
- (d) a non-refundable application fee of \$200;
- (e) an affidavit sworn by the applicant attesting that the applicant
 - (i) is 18 years of age or older,
 - (ii) is a Canadian citizen, and
 - (iii) is or has been for the immediately preceding 6 months, ordinarily resident in Alberta.

(3) An application for an initiative petition must not relate to a matter that is the same or substantially the same as

- (i) any other initiative petition that has been issued by the Chief Electoral Officer within the 12 months preceding the application, or
- (ii) the subject of a successful initiative petition on which an initiative election has yet to be held, or
- (iii) the subject of an initiative election that has been held since the immediately preceding general election.

Issue of an
initiative petition

4(1) If the Chief Electoral Officer is satisfied that an application for an initiative petition meets the requirements of sections 2 and 3, the Chief Electoral Officer must issue an initiative petition in the form prescribed in the regulations.

(2) Within 45 days of the receipt of an application for an initiative petition, the Chief Electoral Officer must notify the applicant in writing

- (a) that the application is successful and an initiative petition will be issued,
- (b) that the application is unsuccessful and an initiative petition will not be issued, or
- (c) of possible amendments that may, in the Chief Electoral Officer's sole opinion, result in the issuance of an initiative petition if the applicant were to reapply.

(3) Notwithstanding subsections (1) and (2), the Chief Electoral Officer shall not issue an initiative petition if there are 5 successful initiative petitions on which initiative elections have not been held.

(4) The Chief Electoral Officer shall review applications for initiative petitions in the order in which they are received.

(5) The Chief Electoral Officer may seek any advice that he, in his sole discretion, deems necessary to determine whether an application for an initiative petition meets the requirements of this Act.

**Requirements
for an initiative
petition**

5(1) In order to be successful, an initiative petition must be submitted to the Chief Electoral Officer within 180 days from the date on which the initiative petition was issued under section 4 and have a number of signatures of electors or persons eligible to be electors equal to or exceeding

- (a) 10% of the total votes cast in the immediately preceding provincial general election, and
- (b) 10% of the total votes cast in not less than 2/3 of the electoral divisions in the immediately preceding provincial general election.

(2) An initiative petition must consist of one or more pages, each of which must contain an identical statement as approved by the Chief Electoral Officer under section 4.

(3) An initiative petition must include for each petitioner

- (a) the printed surname and printed given names or initials of the petitioner,
- (b) the petitioner's signature,
- (c) the street address of the petitioner or the legal description of the land on which the petitioner lives, and
- (d) the date on which the petitioner signed the petition.

(4) Only individuals who are or who are eligible to be electors, may be petitioners.

**Who may
canvass for
petitioners**

6(1) Any person who is or is eligible to be an elector may canvass for individuals to be petitioners.

(2) A person must not, directly or indirectly, accept any inducement for canvassing for individuals to be petitioners.

(3) A person must not, directly or indirectly, pay, give, lend or procure any inducement for a person who canvasses for individuals to be petitioners.

Submission of completed initiative petition

7(1) The Chief Electoral Officer shall determine whether the initiative petition meets the requirements of section 5 within 45 days of the receipt of the initiative petition and the financing information required under Part 3.

(2) In determining whether an initiative petition meets the requirements of section 6, the Chief Electoral Officer may use a random statistical sampling method with a 95% confidence level instead of checking the information provided by each petitioner.

(3) The Chief Electoral Officer may make public the financing information required under Part 3 whenever he decides but in no event, shall he make it public later than the date on which he determines whether the initiative petition is successful.

PART 2

INITIATIVE ELECTION

Report by the Chief Electoral Officer

8(1) If the Chief Electoral Officer determines that an initiative petition meets the requirements of section 5 and Part 3, the Chief Electoral Officer shall report to the Lieutenant Governor in Council that the initiative petition is successful.

(2) When the Chief Electoral Officer reports that an initiative petition is successful, the Lieutenant Governor in Council shall within 6 months of the date of the report order the holding of an initiative election.

(3) An order under subsection (2) shall specify whether the initiative election is to be held

- (a) in conjunction with a general election under the *Election Act*,
- (b) separately on a date provided in the order, or
- (c) in conjunction with the general elections under the *Local Authorities Election Act*.

Application of Election Act

9(1) If an initiative election is to be held in conjunction with a general election under the *Election Act* or separately on a date provided for under section 8(3)(b), the *Election Act* and the

regulations under it apply, with all necessary modifications, to the initiative election except as otherwise provided by the regulations under this Act.

(2) The persons eligible to vote at an initiative election to which the *Election Act* applies are the persons who would be eligible to vote at an election under the *Election Act* on the day the initiative election is held.

Application of
Local
Authorities
Election Act

10(1) If an initiative election is to be held in conjunction with the general elections under the *Local Authorities Election Act*, the *Local Authorities Election Act* and the regulations under it apply, with all necessary modifications, to the initiative election except as otherwise provided by the regulations under this Act.

(2) The persons eligible to vote at an initiative election to which the *Local Authorities Election Act* applies are the persons who would be eligible to vote at an election under the *Local Authorities Election Act* on the day the initiative election is held.

When councils
to conduct vote

11(1) When an initiative election is to be held under the *Local Authorities Election Act*, every council shall conduct the initiative election of the electors residing in the municipality, except as otherwise provided in this section.

(2) The council shall conduct the initiative election notwithstanding that a general election under the *Local Authorities Election Act* is not required in that municipality.

(3) If a council has entered into an agreement with one or more elected authorities in the same area for the conduct of a general election under the *Local Authorities Election Act*, the elected authority that is responsible for the conduct of the general election under the agreement shall conduct the initiative election and has all the rights, powers and duties of a council to conduct the initiative election.

(4) The Minister of Municipal Affairs is responsible for conducting an initiative election of the electors residing in improvement districts, special areas, Métis settlements, summer villages, Indian reserves and national parks and for the purposes of the initiative election has all the rights, powers and duties of a council to conduct the initiative election, including the authority to appoint returning

officers and other election officers.

(5) The Minister of Municipal Affairs may enter into an agreement

- (a)** with any elected authority in the area or in an area adjacent to an improvement district, special area, Métis settlement, summer village, new town, Indian reserve or national park, or
- (b)** with the advisory council of an improvement district or the advisory committee of a special area, the settlement council of a Métis settlement, the board of administrators of a new town or the council of a summer village

to conduct the initiative election on the Minister's behalf, and the elected authority, advisory council, advisory committee, settlement council, board of administrators or council has authority to enter into such an agreement.

(6) An elected authority, advisory council, advisory committee, settlement council, board of administrators or council that enters into an agreement under subsection (5) has all the rights, powers and duties of the Minister of Municipal Affairs to conduct the initiative election.

(7) In this section, "council" and "elected authority" include the council of the City of Lloydminster.

Results of
initiative
election

12(1) The Chief Electoral Officer shall announce the results of an initiative election.

(2) The Chief Electoral Officer must declare an initiative vote to be successful if

- (a)** more than 60% of the electors voting in the initiative election vote in favour of the initiative, and
- (b)** more than 60% of the total number of electors voting in each of at least 2/3 of the electoral divisions vote in favour of the initiative.

Effect of a
successful
initiative
election

13 If the Chief Electoral Officer declares an initiative vote to be successful, the Government must introduce the Bill at the next sitting of the Legislative Assembly following the initiative election.

PART 3

INITIATIVE FINANCING AND ADVERTISING

Regulations for
initiative
financing

14(1) The Lieutenant Governor in Council may make regulations respecting the financing of initiative petitions and initiative elections under this Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations

- (a) establishing what is to be considered a contribution or expense in relation to a initiative petition or initiative election under this Act;
- (b) establishing restrictions on
 - (i) who may accept contributions,
 - (ii) how contributions must be made and accepted, and
 - (iii) information that must be recorded regarding contributions;
- (c) establishing restrictions on
 - (i) who may incur expenses,
 - (ii) how an expense must be authorized by the individual or organization incurring it,
 - (iii) information that must be recorded regarding expenses, and
 - (iv) the amount of expenses that may be incurred by
 - (A) any one individual or organization, or
 - (B) all individuals and organizations that support or

oppose an initiative petition or initiative vote;

- (d) establishing a registration scheme to be administered by the Chief Electoral Officer;
- (e) requiring the reporting of information respecting contributions and expenses;
- (f) requiring the public disclosure of information reported under clause (e), including the disclosure of the names of contributors;
- (g) establishing penalties for exceeding a limit established under clause (c) or for failing to make a report under clause (c) or for failing to make a report under clause (e).

(3) Without limiting subsection (2)(g), the regulations may provide that an initiative petition or an initiative election fails if the proponent or the supporters of an initiative petition or initiation election exceed a limit established under subsection (2)(c) or fail to make a report or make a false or misleading report that is required under subsection (2)(e).

(4) For the purposes of this section, using property and services in such a manner that the use is an expense as defined in a regulation under subsection (2)(a) is incurring an expense.

Regulations for
initiative
advertising

15(1) The Lieutenant Governor in Council may make regulations respecting advertising and opinion surveys in relation to initiative petitions and initiative elections under this Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) establishing what is to be considered advertising and opinion surveys in relation to initiative petitions and initiative elections under this Act;
- (b) establishing restrictions on
 - (i) when advertising or opinion surveys may take place or be conducted, and
 - (ii) who may sponsor advertising and opinion surveys;

- (c) restricting or prohibiting the charging of amounts for advertising in relation to initiative petitions or initiative elections under this Act that exceed the rate usually charged for equivalent advertising;
- (d) respecting the publication of the results of opinion surveys;
- (e) establishing penalties for contravening the regulations.

PART 4

OFFENCES

Prosecution of organizations and their directors and agents

16(1) An act or thing done or omitted by an officer, director, employee or agent of an organization within the scope of the individual's authority to act on behalf of the organization is deemed to be an act or thing done or omitted by the organization.

(2) If an organization commits an offence under this Act, an officer, director, employee or agent of the organization who authorizes, permits or acquiesces in the offence commits the same offence, whether or not the organization is convicted of the offence.

(3) A prosecution for an offence under this Act may be brought against an unincorporated organization in the name of the organization and, for the purposes of the prosecution, the unincorporated organization is deemed to be a person.

Defence of due diligence

17 An individual or organization is not guilty of an offence under this Act if the individual or organization exercised due diligence to prevent the commission of the offence.

Signature buying offences

18(1) No person shall pay, give, lend or procure an inducement for either of the following purposes:

- (a) to induce a person to sign an initiative petition or refrain from signing an initiative petition; or
- (b) to reward a person for having signed an initiative petition or refrained from signing an initiative petition.

(2) No person shall accept an inducement

- (a) to sign an initiative petition or refrain from signing an initiative petition, or
- (b) as a reward for having signed an initiative petition or refrained from signing an initiative petition.

(3) No person shall advance, pay or otherwise provide an inducement, or cause an inducement to be provided, knowing or with the intent that it is to be used for any of the acts prohibited by this section.

(4) No person shall offer, agree or promise to do anything otherwise prohibited by this section.

(5) A person prohibited from doing something by this section must not do the prohibited act directly, indirectly or by another person on behalf of the first person.

Intimidation
offences

19(1) In this section "intimidate" means to do or threaten to:

- (a) use force, violence or restraint against a person;
- (b) inflict injury, harm, damage or loss on a person or property; or
- (c) otherwise intimidate a person.

(2) No person shall intimidate another person:

- (a) to persuade or compel a person to sign an initiative petition or refrain from signing an initiative petition; or
- (b) to punish a person for having signed an initiative petition or refrained from signing an initiative petition.

(3) No person shall, by abduction, duress or fraudulent means:

- (a) impede, prevent or otherwise interfere with a person's right to sign an initiative petition; or
- (b) compel, persuade or otherwise cause a person to sign an initiative petition or refrain from signing an initiative

petition.

(4) A person prohibited from doing something by this section must not do the prohibited act directly, indirectly or by another person on behalf of the first person.

Penalty

20(1) An individual or organization that contravenes sections 6(2) or (3), 18, 19 or the regulations under sections 14 and 15 is guilty of an offence.

(2) Unless otherwise specifically provided, an individual or organization who commits an offence under subsection (1) is liable to a fine of not more than \$5 000 or imprisonment for a term not longer than one year, or both.

Offences in relation to false or misleading information

21(1) Any individual or organization that

- (a) provides false or misleading information when required or authorized by this Act or the regulations to provide information, or
- (b) makes a false or misleading statement or declaration when required by this Act or the regulations to make a statement or declaration,

is guilty of an offence.

(2) An individual or organization is not guilty of an offence under this section if, at the time the information was given or the statement or declaration was made, the individual or organization did not know that it was false or misleading, and with the exercise of reasonable diligence, could not have known that it was false or misleading.

(3) An individual or organization who commits an offence under this section is liable, in addition to any penalties referred to in the regulations under Part 3, to a fine of not more than \$10 000 or imprisonment for a term not longer than 2 years, or both.

PART 5

MISCELLANEOUS

- Regulations** **22** The Lieutenant Governor in Council may make regulations
- (a) prescribing the form of the application for an initiative petition;
 - (b) prescribing the form of the initiative petition;
 - (c) prescribing the duties and powers of the Chief Electoral Officer in connection with initiative elections;
 - (d) modifying the provisions of the *Election Act* and the *Local Authorities Election Act* and the regulations under those Acts to make them applicable to the requirements of an initiative election, including adding to and declaring any provision of those Acts and regulations to be or not to be applicable to the initiative election;
 - (e) generally respecting any other matters and things relating to the holding and conduct of an initiative election that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- Coming into force** **23** This Act comes into force on Proclamation.