

2003 Bill 205

Third Session, 25th Legislature, 52 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 205

CITIZENS' EMPOWERMENT ACT

DR. NICOL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 205

2003

CITIZENS' EMPOWERMENT ACT

(Assented to _____, 2003)

Preamble

WHEREAS it is important that people have a more direct role in influencing the laws that govern their lives;

WHEREAS Alberta has a long tradition of grassroots democracy;
and

WHEREAS it is vital that legislators be receptive to initiatives for direct democracy;

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

Definitions

1 In this Act,

- (a) "democratic guarantee election" means an election after a successful democratic guarantee petition and in Part 3 includes an initiative election;
- (b) "democratic guarantee petition" means a petition under Part 1 for an Act to not come into force;
- (c) "democratic guarantee vote" means the issue that is the subject of a democratic guarantee election;
- (d) "elector" means an elector as defined in the *Election Act*;

- (e) “initiative election” means an election held when a Bill that is the subject of an initiative petition is not passed by the Legislative Assembly;
- (f) “initiative petition” means a petition to have a proposed law introduced in the Legislative Assembly.

Part 1 Democratic Guarantee Petitions

Definition

2 In this Part, “petition” means a democratic guarantee petition.

Coming into force provisions for Acts

3(1) Subject to subsection (2), all Bills introduced in the Legislative Assembly must contain the following provision:

This Act comes into force 90 days after the date it receives Royal Assent unless a democratic guarantee election is called during that 90-day period in which case it comes into force on the day following the official release of the results of the election unless the majority of the votes oppose the coming into force of the Act.

(2) Subsection (1) does not apply to the following:

- (a) Acts that appropriate any part of the public revenue;
- (b) Acts that impose a tax or impost;
- (c) Acts that are declared by a member of Executive Council to be required as a result of an emergency situation; and
- (d) Private Acts.

(3) A member of Executive Council making a declaration under subsection (2)(c) must do so when the Bill is introduced in the Assembly and indicate at that time the reasons for exempting the Bill from the requirements of subsection (1).

Proposals for petitions

4(1) An elector may initiate a democratic guarantee petition for any Act that is not exempted under section 3(2).

(2) A democratic guarantee petition must contain a statement indicating that those who sign the petition are opposed to a certain Act coming into force.

(3) An elector who wishes to initiate a petition must submit the proposed wording to the Chief Electoral Officer before any signatures are obtained.

(4) The Chief Electoral Officer must respond to the person applying under subsection (3) not later than 7 days from the date the application is received.

(5) A person submitting a proposed petition to the Chief Electoral Officer must include the following:

- (a) the person's name, residential address and telephone number;
- (b) the proposed wording of the petition; and
- (c) an affidavit sworn by the person attesting that he or she
 - (i) is 18 years of age or older,
 - (ii) is a Canadian citizen, and
 - (iii) has been ordinarily resident in Alberta for the immediately preceding 6 months.

(6) If the Chief Electoral Officer approves the wording of a petition, he or she must provide that approval to the applicant in writing.

(7) A petition that is approved by the Chief Electoral Officer must contain a statement indicating that approval before signatures are obtained.

Time limits

5(1) To be valid, a petition must be completed not later than 90 days after the date the Act which is the subject of the petition receives Royal Assent.

(2) The Chief Electoral Officer must reject an application for a petition if it is received after the Act which is the subject of the petition is in force.

Requirements for a petition

6(1) In order to be successful, a petition must have a number of signatures of electors or persons eligible to be electors equal to or exceeding 5% of the total number of electors eligible to vote in the immediately preceding general election.

(2) A 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 resides, and
- (d) the date on which the petitioner signed the petition.

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

Review of completed petition

7(1) The Chief Electoral Officer must determine whether the petition meets the requirements of section 6 within 10 days of receipt of the completed petition.

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

Successful petitions

8(1) When a petition is successful, the Chief Electoral Officer must immediately notify the Clerk of the Executive Council, the Minister of Justice and Attorney General and the Clerk of the Legislative Assembly in writing.

(2) When the Clerk of the Executive Council receives a notification from the Chief Electoral Officer, he or she must issue a notice to the effect that the Act which is the subject of the successful petition will not come into force 90 days after the Act received Royal Assent.

(3) A notice under subsection (2) must appear in The Alberta Gazette.

(4) When the Chief Electoral Officer reports that a petition is successful, the Lieutenant Governor in Council must set a date for a democratic guarantee election which cannot be later than 6 months from the date of the report.

(5) An order under subsection (4) shall specify whether the democratic guarantee election is to be held

- (a) in conjunction with a general election under the *Election Act*,
- (b) in conjunction with the general elections under the *Local Authorities Election Act*, or
- (c) independently of an election under clauses (a) and (b).

Part 2 Initiative Petitions

Definition

9 In this Part, “petition” means an initiative petition.

Subject matter of petitions

10(1) An elector may initiate a petition to have a law introduced in the Legislative Assembly.

(2) Subject to subsection (3), a proposal for a petition may be made with respect to any matter within the jurisdiction of the Legislature.

(3) A proposal for a petition shall be rejected if the initiative petition

- (a) requires an expenditure of public funds,
- (b) requires a reduction in funds appropriated by the Legislature,
- (c) requires the imposition of a tax or impost, or
- (d) is contrary to the *Canadian Charter of Rights and Freedoms*, the *Alberta Bill of Rights* or the *Human Rights, Citizenship and Multiculturalism Act*.

Application for a petition

11(1) An elector who wishes to initiate a petition must submit a proposal to the Chief Electoral Officer.

- (2) A proposal under subsection (1) must include
- (a) the name and residential address of the applicant;
 - (b) the proposed wording of an initiative petition, which must be 25 words or less;
 - (c) a draft Bill suitable for introduction in the Legislative Assembly which must comply with section 10 and be drafted in a clear and unambiguous manner;
 - (d) a non-refundable application fee of \$100;
 - (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) has been for the immediately preceding 6 months ordinarily resident in Alberta.

Issue of a petition

12(1) Within 10 days of receiving a petition proposal, the Chief Electoral Officer must notify the applicant in writing

- (a) that the proposal complies with the Act;
 - (b) that the proposal does not comply with the Act; or
 - (c) of possible amendments that may, in the Chief Electoral Officer's sole opinion, result in the approval of the petition proposal if the applicant were to reapply.
- (2) The Chief Electoral Officer shall review petition proposals in the order in which they are received.
- (3) In determining whether an application meets the requirements of this Act, the Chief Electoral Officer may seek any advice that he or she deems necessary.

Requirements for a petition

13(1) In order to be successful, a petition must be submitted to the Chief Electoral Officer within 180 days from the date on which the Chief Electoral Officer's approval was given under section 12 and have a number of signatures of electors or persons eligible to be

electors equal to or exceeding 5% of the total number of electors eligible to vote in the immediately preceding provincial general election.

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

(3) A 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 resides, and
- (d) the date on which the petitioner signed the petition.

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

Review of completed petition

14(1) The Chief Electoral Officer must determine whether the petition meets the requirements of section 13 within 45 days of the receipt of the petition.

(2) In determining whether a petition meets the requirements of section 13, the Chief Electoral Officer may use a random statistical sampling method with a 95% confidence level instead of verifying the information provided by each petitioner.

Successful petition

15(1) If the Chief Electoral Officer declares a petition to be successful, the Government must introduce the Bill which was the subject of the petition at the next sitting of the Legislative Assembly without altering the intention or effect of the draft Bill submitted under section 11(2)(c).

(2) If the Bill under subsection (1) is not introduced or passed during that session of the Assembly, the Clerk of the Assembly shall provide notice to the Lieutenant Governor in Council.

(3) When the Clerk of the Legislative Assembly reports under subsection (2), the Lieutenant Governor in Council must, within 30

days of the date of the report, set a time for holding an initiative election.

(4) An Order in Council under subsection (3) must not prescribe a date for an initiative election more than 90 days from the date of the Order unless the election is to be held in conjunction with an election under the *Local Authorities Election Act* not more than 8 months in advance.

(5) Part 3 applies to an initiative election with all necessary modifications.

(6) The question for the initiative election shall be whether the Bill that resulted from or should have resulted from the successful initiative petition should become law.

(7) If the vote is successful under Part 3, the Government must introduce the Bill at the next sitting of the Assembly.

Part 3 Elections

Application of Election Act

16(1) If a democratic guarantee election is to be held in conjunction with a general election under the *Election Act*, the *Election Act* and the regulations under it apply, with all necessary modifications, to the democratic guarantee election except as otherwise provided by the regulations under this Act.

(2) The persons eligible to vote at a democratic guarantee 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 democratic guarantee election is held.

Application of Local Authorities Election Act

17(1) If a democratic guarantee 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 democratic guarantee election except as otherwise provided by the regulations under this Act.

(2) The persons eligible to vote at a democratic guarantee 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 democratic guarantee election is held.

When councils to conduct vote

18(1) When a democratic guarantee election is to be held under the *Local Authorities Election Act*, every council must conduct the democratic guarantee election of the electors residing in the municipality, except as otherwise provided in this section.

(2) The council shall conduct the democratic guarantee 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 democratic guarantee election and has all the rights, powers and duties of a council to conduct the democratic guarantee election.

(4) The Minister of Municipal Affairs is responsible for conducting a democratic guarantee election of the electors residing in improvement districts, special areas, Metis settlements, summer villages, Indian reserves and national parks and for the purposes of the democratic guarantee election has all the rights, powers and duties of a council to conduct the democratic guarantee 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, Metis 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 Metis settlement, the board of administrators of a new town or the council of a summer village

to conduct the democratic guarantee 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 democratic guarantee election.

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

Results of democratic guarantee election

19(1) The Chief Electoral Officer shall announce the results of a democratic guarantee election.

(2) The Chief Electoral Officer must declare a democratic guarantee vote successful if more than 50% of the electors voting in the democratic guarantee election vote in favour of the Act that is the subject of the election not coming into force.

Effect of a successful election

20 If the Chief Electoral Officer declares a democratic guarantee vote to be successful, the Act that is the subject of the election does not come into force.

Part 4 General

Control over completed petitions

21(1) A petition under Part 1 or Part 2, when completed, remains in the custody of the Chief Electoral Officer.

(2) Completed petitions may be made available to the public by the Chief Electoral Officer.

(3) The provisions of this Act concerning the release of information apply despite the *Freedom of Information and Protection of Privacy Act*.

Regulations

22 The Lieutenant Governor in Council may make regulations

- (a) prescribing the form of the application for petitions under this Act;
- (b) prescribing the form of the petitions;

- (c) prescribing the duties and powers of the Chief Electoral Officer in connection with democratic guarantee elections and 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 a democratic guarantee election and initiative election, including adding to and declaring any provision of those Acts and regulations to be or not to be applicable to the democratic guarantee election or initiative election;
- (e) respecting agreements with municipalities for the conduct of initiative or democratic guarantee elections held in conjunction with elections under the *Local Authorities Election Act*;
- (f) generally respecting any other matters and things relating to the holding and conduct of a democratic guarantee election that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Amends RSA 2000 cE-1

23 The *Election Act* is amended

- (a) in section 4(1)(a), (b) and (c) by adding “, the *Citizens’ Empowerment Act*” before “and the *Senatorial Selection Act*”;**
- (b) in section 4(3) by adding “democratic guarantee election or initiative election under the *Citizens’ Empowerment Act*,” after “election under the *Senatorial Selection Act*,”;**
- (c) in section 9(1) by adding “, elections under the *Citizens’ Empowerment Act*” after “plebiscites under this Act”.**

Explanatory Notes

23 Amends chapter E-1 of the Revised Statutes of Alberta 2000.
Consequential amendments.

(a) section 4(1)(a), (b) and (c) presently reads:

4(1) The Chief Electoral Officer shall

- (a) provide guidance and supervision respecting the conduct of all elections, enumerations and plebiscites conducted under this Act and the Senatorial Selection Act;*
- (b) enforce on the part of all election officers fairness and impartiality in the conduct of their duties and compliance with this Act and the Senatorial Selection Act;*
- (c) issue to election officers any information and guidance the Chief Electoral Officer considers necessary to ensure the effective carrying out of this Act and the Senatorial Selection Act;*

(b) section 4(3) presently reads:

(3) The Chief Electoral Officer shall, immediately following each enumeration, general election, election under the Senatorial Selection Act, by-election or plebiscite, prepare and have printed a

report including a summary of the Chief Electoral Officer's conduct respecting the enumeration, general election, election under the Senatorial Selection Act, by-election or plebiscite, as the case may be, a breakdown of results, and a summary of costs, and shall transmit the report to the Standing Committee, which shall cause the report to be laid before the Legislative Assembly if it is then sitting or, if it is not then sitting, not more than 15 days after the commencement of the next sitting of the Assembly.

(c) section 9(1) presently reads:

9(1) The Lieutenant Governor in Council may appoint a returning officer for each electoral division for the purposes of or in connection with elections, enumerations and plebiscites under this Act and elections under the Senatorial Selection Act.