

3Bill 28
Mr. Liepert

BILL 28

2006

LOCAL AUTHORITIES ELECTION AMENDMENT ACT, 2006

(Assented to _____, 2006)

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

Amends RSA 2000 cL-21

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

2 Section 1 is amended

(a) by adding the following after clause (t):

- (t.1) “official agent” means a person appointed as an official agent pursuant to section 68.1;
- (t.2) “prescribed form” means the appropriate form as set out in the regulations;
- (t.3) “presiding deputy” means a deputy who has been appointed as a presiding deputy pursuant to section 14, by a returning officer;

(b) by adding the following after clause (w):

- (w.1) “scrutineer” means a person recognized as a scrutineer pursuant to section 69 or appointed pursuant to section 70;

3 Section 2(3) and (4) are repealed and the following is substituted:

(3) The agreement referred to in subsection (2) must state which elected authority is responsible for the conduct of the election, and that elected authority must ensure that the procedures prescribed under this Act for holding an election are complied with, including procedures in respect of the retention and destruction of election materials.

(4) The elected authority that is responsible for the conduct of the election under an agreement referred to in subsection (2) has all the rights, powers and duties of the elected authorities that have entered into that agreement respecting the conduct of the election in the area to which the agreement applies, including the power to pass bylaws and resolutions but not the power to pass bylaws under section 27.

4 Section 3(4) and (5) are repealed and the following is substituted:

(4) The elected authority that is responsible for the conduct of the election under an agreement referred to in subsection (1) has all the rights, powers and duties of the elected authorities that have entered into the agreement respecting the conduct of the election in the area to which the agreement applies, including the power to pass bylaws and resolutions but not the power to pass bylaws under section 27.

(5) The elected authority that is responsible for the conduct of the election must ensure that the procedures prescribed under this Act for holding an election are complied with, including procedures in respect of the retention and destruction of election materials.

5 Section 5 is amended by adding “77.1, 77.2, 77.3,” after “section 73,”;

6 Section 10(2) is amended by striking out “34(1),” and substituting “34(1) with respect to every office of the elected authority,”.

7 Section 12(b)(ii) is amended by striking out “the tax roll as the person liable to pay property taxes for” **and substituting** “a certificate of title as the person who owns”.

8 The following is added after section 13:

Impartiality

13.1(1) A returning officer must be independent and impartial when performing the duties of a returning officer.

(2) No local jurisdiction, its officers or any other person shall obstruct or attempt to influence the returning officer in the carrying out of the duties of a returning officer.

9 Section 14 is amended

(a) in subsection (1)(a) by adding “a presiding deputy,” **after** “appoint”;

(b) in subsection (2) by adding “presiding deputy and” **before** “deputy”;

(c) by adding the following after subsection (2):

(3) A returning officer may delegate any of the returning officer’s powers and duties to a constable, presiding deputy or deputy and may impose conditions and restrictions on the delegation.

10 The following is added after section 14:

Presiding deputy

14.1 A presiding deputy shall carry out the duties of a presiding deputy under this Act and any other duties that a returning officer assigns to the presiding deputy.

11 Section 16 is amended

(a) in subsection (1) by adding “official” **before** “agent”;

(b) in subsection (2) by striking out “enumerator” and substituting “enumerator, scrutineer”.

12 Section 20 is amended by striking out “deputy returning officer” and substituting “presiding deputy”.

13 Section 22 is amended

(a) in subsection (1)

(i) by adding the following after clause (d):

(d.1) the person has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act* or the *Canada Elections Act* (Canada);

(ii) by repealing clauses (e) and (f);

(b) by repealing subsection (2);

(c) in subsection (3) by striking out “to (f)” and substituting “to (d)”.

14 Section 27 is amended

(a) in subsection (1) by striking out “and” at the end of clause (a) and by adding the following after clause (a):

(a.1) the name, address and telephone number of the person’s official agent, and

(b) in subsection (2)

(i) by striking out “city or a board of trustees under the *School Act*” and substituting “city that is a local jurisdiction with a population of at least 10 000 or a board of trustees under the *School Act* of a local jurisdiction with a population of at least 10 000”;

(ii) by striking out “than 25” and substituting “than 100”.

15 Section 28 is amended

(a) by repealing subsection (1.1) and substituting the following:

(1.1) The person who is nominated as a candidate is responsible for ensuring that the nomination filed under subsection (1) meets the requirements of section 27.

(b) by repealing subsection (3.1);

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

(4) At any time after 12 noon on nomination day until the term of office to which the filed nomination papers relate has expired, a person may request to examine the filed nomination papers during regular business hours and in the presence of the returning officer, deputy or secretary.

(d) in subsection (6)

(i) by striking out “After 12 noon on” and substituting “Twenty-four hours after the close of nominations on”;

(ii) by striking out “shall” and substituting “shall, as soon as practicable,”.

16 The following is added after section 28:

Material to be provided to candidate

28.1 The returning officer, on receiving a nomination paper, must, if requested by the candidate, provide to the candidate a sufficient number of copies of the prescribed form for the identification of an official agent, campaign workers and scrutineers for the purposes of identification under section 52.

17 Section 29(2)(a) is amended

(a) by striking out “\$500” and substituting “\$1000”;

(b) by striking out “100 000” and substituting “10 000”.

18 Section 34(2.1) and (3) are repealed and the following is substituted:

(3) At any time after 12 noon on nomination day until the term of office to which the filed nomination papers relate has expired, a person may request to examine the filed nomination papers during regular business hours and in the presence of the returning officer, deputy or secretary.

(4) The returning officer or secretary must retain all the filed nomination papers until the term of office to which the nomination papers relate has expired.

19 Section 40 is amended

(a) in subsection (1)

(i) by striking out “deputy or other person presiding” **and substituting** “presiding deputy”;

(ii) by striking out “deputy’s or other presiding person’s” **and substituting** “presiding deputy’s”;

(b) in subsection (2) by striking out “deputy or other person presiding” **and substituting** “presiding deputy”;

(c) by adding the following after subsection (2):

(3) Subsections (1) and (2) apply to additional ballot boxes that are required at the voting station after the voting station has been opened.

20 Section 42(3) is amended by striking out “void” and substituting “subject to being rejected”.

21 Section 45 is amended by adding the following after subsection (2):

(3) The local jurisdiction may authorize the presiding deputy to post the printed instructions in languages other than English at the voting stations as the local jurisdiction considers appropriate.

22 Section 46 is amended by adding the following after subsection (2):

(2.1) Despite subsection (1), an elected authority that is responsible for the conduct of an election under an agreement referred to in section 2(2) or 3(1) may, by a bylaw passed before June 30 of a year in which an election is to be held, provide that voting stations in an area that is subject to the agreement are to be open before 10 a.m.

23 Section 47(2) is amended by striking out “79 and 81” and substituting “77.1, 79, 81 and 83”.

24 Section 49(7) is repealed and the following is substituted:

(7) Persons are entitled to have access to information in the permanent electors register about themselves or about another person on whose behalf they are authorized to act, to determine whether the information is correct.

25 Section 50(2) is amended by striking out “32” and substituting “32, if the candidate has not withdrawn,”.

26 Section 52 is amended

- (a) **by adding** “, an official agent” **before** “or a campaign worker” **wherever it occurs**;
- (b) **by striking out** “provided by the elected authority, in accordance with” **and substituting** “that meets the requirements of”;
- (c) **by adding** “, official agent” **before** “or campaign worker”.

27 Section 53 is repealed and the following is substituted:

Proof of elector eligibility

53(1) Every person who attends at a voting station for the purpose of voting must be permitted to vote

- (a) if the person's name appears on the list of electors, if any, or
- (b) if the person makes a statement in the presence of an officer at the voting station, in the prescribed form, that the person is eligible to vote as an elector.

(2) Despite subsection (1), if a bylaw has been passed by the elected authority under subsection (3), a person who attends at a voting station for the purpose of voting must be permitted to vote if the requirements of subsection (1) are met and the person produces for inspection the number and types of identification required by the bylaw.

(3) An elected authority may, by a bylaw passed no later than 6 months prior to nomination day of a year in which an election is to be held, provide for the number and types of identification that are required to be produced by a person to verify the person's identity and age for the purpose of determining whether the person is eligible to vote.

(4) An elected authority may, by a bylaw passed no later than 6 months prior to nomination day of a year in which an election is to be held, provide for the number and types of identification that are required to be produced by a person who wishes to vote by a special ballot to verify the person's identity and age for the purpose of determining whether the person is eligible to vote.

(5) When an elected authority intends to pass a bylaw under subsection (3) or (4) it must

- (a) advertise the proposed bylaw in accordance with section 53.1, and
- (b) include in the notice of election day under section 35 the proposed number and types of identification to be required.

(6) A person who attends a voting station for the purpose of voting may not vote

- (a) if the requirements of subsection (1) are not met, and

- (b) if the elected authority has passed a bylaw under subsection (3) and the requirements of subsection (2) are not met.

28 The following is added after section 53:

Advertising a section 53 bylaw

53.1(1) Notice of a bylaw to be passed under section 53 must

- (a) be published at least once a week for 2 consecutive weeks in at least one newspaper or other publication circulating in the area to which the proposed bylaw relates, or
- (b) be mailed or delivered to every residence in the area to which the proposed bylaw relates.

(2) A notice under subsection (1) must be advertised before second reading of the proposed bylaw.

(3) A notice under subsection (1) must contain

- (a) a statement of the general purpose of the proposed bylaw and the proposed requirements for the number and types of identification that must be produced to verify elector identity and age,
- (b) the address where a copy of the proposed bylaw may be inspected, and
- (c) an outline of the procedure to be followed by anyone wishing to file a petition in respect of the proposed bylaw, as provided for in the *Municipal Government Act*.

(4) A certificate of a designated officer as defined in the *Municipal Government Act* certifying that something has been advertised in accordance with this section is proof, in the absence of evidence to the contrary, of the matters set out in the certificate.

(5) The certificate is admissible in evidence without proof of the appointment or signature of the person who signed the certificate.

29 Section 54(1) is amended by striking out “agent” wherever it occurs and substituting “official agent or scrutineer”.

30 Section 64 is repealed and the following is substituted:

Person deemed to have voted

64 A person whose ballot is deposited in a ballot box is deemed to have voted.

31 Section 67 is amended

- (a) in subsection (1) by striking out “candidates or agents” and substituting “candidates, official agents or scrutineers”;**
- (b) in subsection (2)**
 - (i) by striking out “a deputy” and substituting “the presiding deputy”;**
 - (ii) by striking out “the deputy” and substituting “the presiding deputy”;**
- (c) in subsection (3) by striking out “A deputy” and substituting “The presiding deputy”;**
- (d) in subsection (4) by striking out “a deputy” and substituting “the presiding deputy”.**

32 The following is added after section 68:

Official agent

68.1(1) Each person nominated as a candidate may, when filing nomination papers, appoint an elector to be the person’s official agent.

(2) A person who has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act* or the *Canada Elections Act* (Canada) is not eligible to be appointed as an official agent.

(3) No candidate shall act as an official agent for any other candidate.

(4) The duties of an official agent are those assigned to the official agent by the candidate.

33 Section 69 is amended

(a) **in subsection (1) by striking out “agent” wherever it occurs and substituting “scrutineer”;**

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

(1.1) A person who has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act* or the *Canada Elections Act* (Canada) is not eligible to be recognized as a scrutineer.

(c) **in subsection (2)**

(i) **by striking out “an agent” and substituting “a scrutineer”;**

(ii) **by striking out “a deputy” and substituting “the presiding deputy”;**

(d) **by repealing subsection (3) and substituting the following:**

(3) The presiding deputy shall not permit a candidate to have an official agent or a scrutineer present while the candidate is present in a voting station during voting hours.

(3.1) The presiding deputy shall not permit a candidate to have both an official agent and a scrutineer present at the same time in a voting station during voting hours.

(e) **in subsection (4)**

(i) **by adding “or official agent” before “personally”;**

(ii) **in clauses (a) and (b) by striking out “agent” and substituting “scrutineer”;**

(f) by repealing subsection (5) and substituting the following:

(5) The presiding deputy may designate the place or places at a voting station where a candidate, an official agent or a scrutineer of a candidate may observe the election procedure.

(g) in subsection (6)

- (i) by striking out “an agent or” and substituting “an official agent, a scrutineer or”;**
- (ii) by striking out “those agents” and substituting “those official agents and scrutineers”;**
- (iii) by striking out “of an agent at” and substituting “of an official agent or a scrutineer at”.**

34 Section 70 is amended

(a) in subsection (1)

- (i) by striking out “deputy” and substituting “returning officer”;**
- (ii) by striking out “agents” wherever it occurs and substituting “scrutineers”;**

(b) by adding the following after subsection (2):

(2.1) A person who has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act* or the *Canada Elections Act* (Canada) is not eligible to be appointed under subsection (1).

(c) in subsection (3)

- (i) by adding “presiding” before “deputy”;**
- (ii) by striking out “agent” and substituting “scrutineer”;**

(d) in subsection (4)

- (i) by adding “presiding” before “deputy”;**

(ii) **by striking out “an agent” and substituting “a scrutineer”;**

(e) in subsection (5)

(i) **by striking out “agent” wherever it occurs and substituting “scrutineer”;**

(ii) **by adding “presiding” before “deputy”.**

35 Section 71 is amended

(a) **by striking out “an agent” wherever it occurs and substituting “a scrutineer”;**

(b) **by striking out “official oath” and substituting “statement under section 16”.**

36 Section 76 is repealed.

37 Section 77.1 is amended

(a) **in subsection (1)(c) by striking out “candidate or agent” and substituting “candidate, official agent or scrutineer”;**

(b) **by repealing subsection (2) and substituting the following:**

(2) An elected authority may, by resolution passed no later than 6 months prior to nomination day, provide for special ballots and provide that the application for special ballots may be made by any one or more of the following methods:

(a) in writing;

(b) by telephone;

(c) by telecopier;

(d) in person;

(e) by e-mail.

(c) by adding the following after subsection (2):

(2.1) If an elected authority has made a resolution described in subsection (2), an elector may apply to the returning officer of the elector's local jurisdiction for a special ballot, by a method provided for in the resolution, at any time between the day of the notice of election day and the closing of voting stations on election day.

(2.2) Despite subsection (2.1), if authorized by a resolution of the elected authority passed before nomination day, the returning officer may accept an application under subsection (2.1) earlier than the day of the notice of election day.

(2.3) If an elected authority passes a resolution described in subsection (2), the elected authority must notify the Minister of the resolution no later than 4 months prior to nomination day.

(2.4) An application for a special ballot must include the following:

- (a) first and last name of the elector;
- (b) municipal address of the residence of the elector;
- (c) school elector status, if the elector is voting for a school board trustee;
- (d) mailing address to which the special ballot is to be sent;
- (e) contact telephone number;
- (f) contact e-mail address, if the elector is unavailable by telephone;
- (g) reason why a special ballot is requested.

(d) in subsection (3)(a) by striking out "voting" and substituting "special ballot elector";

(e) in subsection (4)

- (i) by striking out "agent" and substituting "official agent or scrutineer";**

- (ii) **by striking out “substation” wherever it occurs and substituting “station”.**

38 Section 77.2 is amended

- (a) **in subsection (1) by striking out “the elector must vote by writing, in legible printing in the space provided, the name of the candidates of the elector’s choice,” and substituting “the elector must vote by either writing or printing, in a legible manner, the names of the candidates of the elector’s choice, or by any other method provided for by the elected authority”;**

- (b) **in subsection (2) by adding the following after clause (d):**

- (d.1) if the elected authority has passed a bylaw under section 53(3) or (4), the elector must attach a copy of the elector’s identification that meets the requirements of that bylaw,

- (c) **by adding the following after subsection (2):**

(2.1) If an elector has attached a copy of the elector’s identification, as described in subsection (2)(d.1), the copy may be used only to verify the elector’s identity and age for the purpose of determining whether the elector is eligible to vote, and the returning officer must ensure that the copy and the information it contains are not disclosed or used for any other purpose.

- (d) **in subsection (3) by adding “or by the time and date set out in a resolution under subsection (3.1)” after “election day”;**

- (e) **by adding the following after subsection (3):**

(3.1) An elected authority may, by resolution, set a time and date earlier than the closing of the voting station on election day for when an outer envelope must be received by a returning officer.

- (f) **by repealing subsection (4) and substituting the following:**

(4) On receipt of the outer envelope, the returning officer must open the outer envelope, remove from it the certificate envelope and determine

- (a) whether the name on the certificate envelope is the same as that of an individual already recorded in the special ballot elector register under this section,
- (b) whether Part 1 of the certificate is properly completed, and
- (c) if the elected authority has passed a bylaw under section 53(3) or (4), whether the elector has attached a copy of the elector's identification that meets the requirements of that bylaw.

(g) by repealing subsection (5) and substituting the following:

(5) On determining that the voter is recorded in the special ballot elector register, that Part 1 of the certificate is properly completed and, if the elected authority has passed a bylaw under section 53(3) or (4), that the copy of the elector's identification meets the requirements of the bylaw, the returning officer must

- (a) sign Part 2 of the certificate,
- (b) if the elector's name appears on the list of electors, if any, for the voting station in which the elector is entitled to vote, enter opposite the name of that person on the list of electors the word "special",
- (c) if the elector's name does not appear on the list of electors, if any, for the voting station in which the elector is entitled to vote, enter the elector's name on the list of electors and, opposite the name, the word "special",
- (d) record in the special ballot elector register in the appropriate column the date and time the returning officer received the certificate envelope,

- (e) open the certificate envelope, remove from it the sealed ballot envelope and place the sealed ballot envelope in a sealed ballot box marked “special ballot”, and
- (f) enter in the special ballot elector register, in the appropriate column, the word “voted” and the reason for using the special ballot, that is, physical incapacity, absence, election officer, candidate, official agent or scrutineer.

(5.1) If the returning officer is not satisfied

- (a) that Part 1 of the certificate is properly completed,
- (b) if the elected authority passed a bylaw under section 53(3) or (4), that a copy of the elector’s identification meets the requirements of the bylaw,
- (c) that the elector has not already been entered on the special ballot voter register, or
- (d) that the elector has not already returned a special ballot,

the returning officer must retain the certificate envelope unopened, attach the copy of the elector’s identification, if any, to the certificate envelope, treat the ballot in the envelope as a rejected ballot and mark the certificate envelope accordingly.

(5.2) If the returning officer cannot determine whether a certificate is valid under subsection (5) or rejected under subsection (5.1) or the returning officer is of the opinion that the special ballot does not meet the requirements of this Act, the returning officer must forthwith notify a person appointed by the Minister under subsection (5.3) and set the unopened certificate envelope aside in a secure ballot box to be reviewed by that person.

(5.3) The Minister must, by order, appoint one or more persons to be available to review questionable certificates under subsection (5.2) and declare them either valid or rejected.

(5.4) On being notified under subsection (5.2), a person appointed under subsection (5.3) must review the questionable certificate, complete the prescribed form declaring the

certificate either valid or rejected, submit the form to the returning officer and submit a copy of the form to the local jurisdiction and the Minister.

(5.5) If the certificate is declared valid under subsection (5.4), the returning officer must treat the ballot as a ballot to which subsection (5) applies.

(5.6) If the certificate is declared rejected under subsection (5.4), the returning officer must treat the ballot as a ballot to which subsection (5.1) applies.

(h) by adding the following after subsection (7):

(8) Subject to this section and section 77.1, the voting procedures for a special ballot must as nearly as possible follow the provisions of this Act except that the returning officer may use one special ballot box for the local jurisdiction, ward or subdivision.

(9) If the appropriate forms for voting by special ballot have been provided under section 77.1 to an elector but the special ballot is not returned to a returning officer under this section before the close of voting on election day or before the time and date set out in a resolution under subsection (3.1), the returning officer must record the special ballots on the ballot account referred to in section 88(1) as not returned.

39 Section 77.3 is amended by striking out “day,” and substituting “day or by the time and date set out in a resolution under section 77.2(3.1).”

40 Section 78(6) is amended by striking out “candidate or agent” and substituting “candidate, official agent or scrutineer”.

41 Section 81 is amended

(a) by renumbering it as section 81(1);

(b) in subsection (1) by striking out “deputies, accompanied by candidates and agents” and substituting “presiding

deputies, accompanied by candidates, official agents and scrutineers”;

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

(2) Despite subsection (1), candidates and a candidate’s official agent and scrutineer may attend an institutional vote only if the vote is conducted at a fixed location in a public area of the institution and may not attend voting conducted in the room of a resident of the institution.

(3) Despite subsection (1), the presiding deputy shall not permit a candidate to have an official agent or a scrutineer present while the candidate is present at an institutional vote.

(4) Despite subsection (1), a candidate may not have both an official agent and a scrutineer attend an institutional vote at the same time.

42 Section 84(3) is amended by striking out “85” and substituting “75, 85”.

43 Section 85 is amended

(a) in subsection (1)(b) by striking out “candidates or agents” and substituting “candidates, official agents or scrutineers”;

(b) in subsection (2) by striking out “agent” wherever it occurs and substituting “official agent or scrutineer”.

44 Section 86(1) is amended

(a) by adding “reject” before “any ballot”;

(b) by striking out “is void and” and substituting “and the rejected ballots”.

45 Section 87(1) is amended by striking out “agent” and substituting “official agent or scrutineer”.

46 Section 88(1) is amended

(a) by adding the following after clause (i):

(i.1) the number of special ballots not returned;

(b) by adding the following after clause (l):

(m) the number of persons objected to under section 54.

47 Section 89(1) is amended by striking out “agents” and substituting “official agents or scrutineers”.

48 Section 90 is renumbered as section 90(1) and the following is added after subsection (1):

(2) Every presiding deputy at the close of the voting station on election day must make a copy of each voter register on which an objection has been noted under section 54.

(3) After the close of voting stations on election day and prior to the disposition of election materials under section 101, any person who may object under section 54 may, in the presence of the secretary or returning officer during regular business hours, view the copy of the voter register on which objections have been noted.

49 Section 93 is amended by striking out “certificate envelopes,” and substituting “certificate envelopes and copies of special electors’ identification, if any,”.

50 Section 94(1) is amended by striking out “box and the ballot account” and substituting “box, the ballot account and the copies made under section 90 of the voter registers on which objections have been noted”.

51 Section 98 is amended

(a) in subsection (1)

(i) in clause (a)

(A) by striking out “an agent of a candidate” **and substituting** “an official agent or a scrutineer of a candidate”;

(B) by striking out “an agent appointed” **and substituting** “a scrutineer appointed”;

(ii) by striking out “or” at the end of clause (a), adding “or” at the end of clause (b) and adding the following after clause (b):

(c) the returning officer is of the opinion that there may have been an administrative or technical error that may cause an error in the count of votes.

(b) in subsection (2)(a)(i) by striking out “agent” wherever it occurs and substituting “scrutineer”.

52 Section 101 is amended

(a) by adding “copies of voter registers, if any, made under section 90 and” **after** “shall retain”;

(b) by adding “, and cause copies of voter registers, if any, to be destroyed,” **after** “contents destroyed”.

53 Section 106(1) is amended by striking out “agent” and substituting “official agent, scrutineer”.

54 Section 108(3) is amended by striking out “agent” and substituting “official agent or scrutineer”.

55 Section 118 is amended

(a) in subsection (2)

(i) by striking out “audited”;

- (ii) **by adding** “and may prescribe how campaign contributions not used for campaign expenses must be used” **after** “campaign expenses”;

(b) by adding the following after subsection (2):

(2.1) If a bylaw is passed under subsection (2), the elected authority may require that the statements of campaign contributions and campaign expenses be audited in accordance with generally accepted auditing standards.

(2.2) If a bylaw is passed under subsection (2), a person eligible to vote in the election may request to examine the statements of campaign contributions and campaign expenses during regular business hours and in the presence of the returning officer, deputy or secretary.

56 Section 126(2) is amended by adding the following after clause (a):

- (a.1) the elected authority,

57 Section 150 is amended

- (a) in subsection (1) by striking out** “constable and agent” **and substituting** “candidate, constable, official agent and scrutineer”;
- (b) in subsection (7) by striking out** “deputy or agent” **and substituting** “deputy, official agent or scrutineer”.

58 Section 152(3) is amended by striking out “agent” **and substituting** “official agent or scrutineer”.

59 Section 159(2)(c) is amended by striking out “candidate” **and substituting** “candidate, an official agent, a scrutineer”.

Explanatory Notes

1 Amends chapter L-21 of the Revised Statutes of Alberta 2000.

2 Definitions.

3 Section 2 presently reads in part:

(3) The agreement referred to in subsection (2) shall provide which elected authority is to be responsible for the conduct of the election and that elected authority shall ensure compliance with the procedures prescribed under this Act for holding an election, including the retention and destruction of election materials, except that each elected authority is responsible for the establishment of a deposit requirement, if any.

(4) The elected authority that is responsible for the conduct of the election under the agreement referred to in subsection (2) has all the rights, powers and duties of those elected authorities that have entered into the agreement, respecting the conduct of the election.

4 Section 3 presently reads in part:

(4) The elected authority that is responsible for the conduct of the election must ensure that the procedures prescribed under this Act for holding an election are complied with, including the retention and destruction of election materials, but each elected authority is responsible for the establishment of a deposit requirement, if any.

(5) The elected authority that is responsible for the conduct of the election under an agreement described in subsection (1) has all the rights, powers and duties respecting the conduct of the election of

those elected authorities that have entered into the agreement.

5 Section 5 presently reads:

5 All proceedings that, in the opinion of an elected authority, are necessary to give full effect to section 73, 79, 80 or 81 are deemed to be authorized notwithstanding any inconsistencies that may arise between any of those sections and any other provision of this Act.

6 Section 10(2) presently reads:

(2) If a declaration is made under section 34(1), those declared elected may hold an organizational meeting before the date of the general election.

7 Section 12(b) presently reads:

12 The provisions of this Act that apply to municipalities apply to summer villages except that in respect of a summer village

(b) a person is entitled to vote at an election if

(i) the person is eligible to vote under section 47,

(ii) the person is 18, a Canadian citizen and is named on the tax roll as the person liable to pay property taxes for property within the summer village, or

(iii) the person is 18, a Canadian citizen and is the spouse or adult interdependent partner of a person referred to in subclause (ii),

8 Impartiality.

9 Section 14 presently reads:

14(1) In addition to performing the duties specified in this or any other Act, a returning officer shall

- (a) appoint deputies, constables and other persons as required;*
- (b) establish voting stations;*
- (c) designate at least 2 deputies to work at each voting station, one of whom shall be designated as the presiding deputy, who is to be in charge of the voting station;*
- (d) provide for the supply and delivery of ballots, ballot boxes, instructions to electors and other necessary supplies to all voting stations;*
- (e) give notice of nominations;*
- (f) receive nominations;*
- (g) declare acclamations;*
- (h) give notice of elections;*
- (i) do all things necessary for the conduct of an election.*

(2) A returning officer has all the duties and powers of a deputy.

10 Presiding deputy.

11 Section 16 presently reads:

16(1) Every returning officer and agent before performing the duties of that office must take and subscribe to the official oath in the prescribed form.

(2) Every deputy, enumerator and constable before performing the duties of that office must subscribe to a statement in the prescribed form.

12 Section 20 presently reads:

20 The returning officer, a deputy returning officer or a commissioner for oaths is authorized to administer an oath to a person making an oath that is authorized or required by this Act.

13 Section 22 presently reads in part:

22(1) A person is not eligible to be nominated as a candidate in any election under this Act if on nomination day

- (a) the person is the auditor of the local jurisdiction for which the election is to be held;*
- (b) the person is an employee of the local jurisdiction for which the election is to be held unless the person is on a leave of absence granted under this section;*
- (c) the person is indebted to the municipality of which the person is an elector for taxes in default exceeding \$50, excluding from that amount
 - (i) any indebtedness for current taxes, and*
 - (ii) any indebtedness for arrears of taxes for which the person has entered into a consolidation agreement with the municipality, unless the person is in default in the payment of any money due under the agreement;**
- (d) the person is indebted to the local jurisdiction for which the election is to be held for any debt exceeding \$500 and in default for more than 90 days;*
- (e) the person is a party to a subsisting contract with the local jurisdiction for which the election is to be held under which money of the local jurisdiction is payable or may*

become payable for any work, service, matter or thing;

(f) the person has a pecuniary interest, direct or indirect, in any subsisting contract with the local jurisdiction for which the election is to be held under which money of the local jurisdiction is payable or may become payable for any work, service, matter or thing.

(2) Subsection (1)(e) and (f) do not apply to a candidate for election to a council.

(3) Subsection (1)(b) to (f) do not apply to a candidate for election as a trustee of a school board.

14 Section 27 presently reads in part:

27(1) Every nomination of a candidate shall be in the prescribed form and signed by at least 5 electors eligible to vote in that election and resident in the local jurisdiction on the date of signing the nomination, and shall be accompanied with a written acceptance signed in the prescribed form by the person nominated, stating

(a) that the person is eligible to be elected to the office, and

(b) that the person will accept the office if elected,

and if required by bylaw, it must be accompanied with a deposit in the required amount.

(2) Notwithstanding subsection (1), a city or a board of trustees under the School Act may, by a bylaw passed prior to June 30 of a year in which a general election is to be held, specify the minimum

number of electors required to sign the nomination of a candidate for an office, but that number must be at least 5 and not more than 25.

15 Section 28 presently reads in part:

(1.1) The person who is filing a nomination under subsection (1) is responsible for ensuring that it meets the requirements of section 27.

(3.1) If the returning officer is of the opinion, based on reasonable and probable grounds, that a person who is nominated as a candidate is not eligible to be a candidate, the returning officer may note that on the nomination papers.

(4) After 12 noon on nomination day, a person eligible to vote in the election may request to examine the filed nominations during regular business hours and in the presence of the returning officer, deputy or secretary.

(6) After 12 noon on nomination day, the returning officer shall forward a signed statement showing the name of each nominated candidate and any information about the candidate that the candidate has consented to being disclosed to the relevant Minister's Deputy Minister.

16 Material to be provided to candidate.

17 Section 29(2) presently reads:

(2) An amount fixed in a bylaw under subsection (1) may not exceed

(a) \$500, in the case of a local jurisdiction with a population of more than 100 000, or

(b) \$100, in any other case.

18 Section 34 presently reads in part:

(2.1) The returning officer or secretary must retain the nomination papers and other material relating to the receipt of nominations until the term of office to which they relate has expired.

(3) The nomination papers and other related material may be inspected by an elector during regular business hours in the presence of the secretary.

19 Section 40 presently reads:

40(1) The deputy or other person presiding at a voting station shall, immediately after the opening of the voting station, show each ballot box to the persons present at the voting station so that they can see that it is empty, close and seal the box so that it cannot be opened without breaking the seal and place the box in the deputy's or other presiding person's view for the receipt of ballots.

(2) The deputy or other person presiding at the voting station shall keep each ballot box closed and sealed and in full view of all present during the hours of voting.

20 Section 42(3) presently reads:

(3) Every ballot used in an election for a member of an elected authority shall contain a brief explanatory note stating the maximum number of candidates who can be voted for in order not to make the ballot void.

21 Section 45 presently reads:

45(1) Before the opening of the voting station, the presiding deputy at the voting station shall cause the printed instructions for the

electors to be posted within each voting compartment and at a conspicuous location within the voting station and shall ensure that they remain posted there until the close of the voting station.

(2) The instructions shall be printed in clearly legible characters in the prescribed form.

22 Section 46 presently reads:

46(1) Every voting station shall be kept open continuously on election day from 10 a.m. until 8 p.m.

(2) Notwithstanding subsection (1), an elected authority may, by a bylaw passed prior to June 30 of a year in which an election is to be held, provide that the voting station is to be open before 10 a.m.

(3) Promptly at 8 p.m. on election day, the deputy shall declare the voting station closed.

(4) If, when the voting station is declared closed, there is an elector in the voting station who wishes to vote, the elector shall be permitted to do so, but no other person shall be allowed to enter the voting station for that purpose.

23 Section 47(2) presently reads:

(2) Subject to subsection (3) and sections 75, 79 and 81, an elector is eligible to vote only at the voting station for the voting subdivision in which the elector's place of residence is located on election day.

24 Section 49(7) presently reads:

(7) Persons or their agents are entitled to have access to information in the permanent electors register about themselves or the persons for whom they are agents to determine whether the information is correct.

25 Section 50(2) presently reads:

(2) When a candidate files a nomination paper the returning officer shall, on the request of the candidate, provide the candidate the day after

nominations may be withdrawn under section 32 with a copy of the list of electors prepared pursuant to subsection (1), if any.

26 Section 52 presently reads:

52 A person to whom an enumerator, a candidate or a campaign worker on behalf of a candidate has produced identification provided by the elected authority, in accordance with the regulations, indicating that the person is an enumerator, a candidate or a campaign worker shall not

(a) obstruct or interfere with, or

(b) cause or permit the obstruction or interference with,

the free access of the enumerator, candidate or campaign worker to each residence in a building containing 2 or more residences or to each residence in a mobile home park.

27 Section 53 presently reads:

53(1) Every person who attends at a voting station for the purpose of voting shall be permitted to vote

(a) if the person's name appears on the list of electors, if any, or

(b) if the person makes a statement, in the prescribed form, that the person is eligible to vote as an elector.

(2) Every statement shall be made in the presence of an officer at the voting station.

(3) If a person described in subsection (1) refuses to make a statement and the person's name is not on the list of electors, if any, the person may not vote for that office or on the bylaw or question.

28 Advertising a section 53 bylaw.

29 Section 54(1) presently reads:

54(1) If a candidate or the candidate's agent objects to a person who makes a statement, a deputy shall note in the voting register the reason for the objection and the name of the candidate or agent making the objection and shall initial the objection.

30 Section 64 presently reads:

64 A person who has caused the person's ballot to be deposited in a ballot box is deemed to have voted.

31 Section 67 presently reads:

67(1) Except for the returning officer, deputy, constable, candidates or agents authorized to attend at the voting station and the electors who are for the time being actually engaged in voting, no other person is entitled to be present, nor shall any other person be

permitted to be present, in the voting station during the time appointed for voting.

(2) Notwithstanding subsection (1), a deputy at the voting station may authorize a person temporarily to observe the voting procedures from a location within the voting station designated by the deputy.

(3) A deputy shall not designate a location under subsection (2) that would allow the observer to see how electors mark their ballots.

(4) A person permitted to be present in the voting station pursuant to subsection (2) shall leave the voting station on the request of a deputy.

32 Official agent.

33 Section 69 presently reads:

69(1) If, at any time during voting hours, a person who is at least 18 years old presents to the presiding deputy a written notice, in a form acceptable to the returning officer,

- (a) signed by a candidate, and*
- (b) stating that the person presenting the notice is to represent that candidate as the candidate's agent at the voting station,*

the person presenting the notice shall be recognized by the presiding deputy as the agent of the candidate.

(2) Before a person is recognized as an agent, the person shall make and subscribe before a deputy at the voting station a statement in the prescribed form.

(3) The deputy shall not permit a candidate to have more than one agent present at any time in a voting station during voting hours.

(4) A candidate personally may

- (a) undertake the duties that the candidate's agent may undertake, and*
- (b) attend any place that the candidate's agent is authorized by this Act to attend.*

(5) The deputy may designate the place or places at a voting station where a candidate, an agent of a candidate, or both, may observe the election procedure.

(6) When, in the provisions of this Act that relate to the election of a member of an elected authority, expressions are used requiring or authorizing an act or thing to be done or implying that an act or thing is to be done in the presence of an agent or a candidate, the expression is deemed to refer to the presence of those agents

- (a) that are authorized to attend, and*

(b) that have in fact attended at the time and place where that act or thing is being done,

and if the act or thing is otherwise properly done, the non-attendance of an agent at that time and place does not invalidate it.

34 Section 70 presently reads:

70(1) At any time fixed for a vote on a bylaw or question under this Act, the deputy, if requested in writing by 2 or more electors, shall appoint, in writing, those persons named in the request as agents to attend at the voting stations on behalf of the persons interested in promoting the passing of the bylaw or voting in the affirmative on the question and, if so requested by 2 or more electors, shall appoint, in writing, those persons named in the request to attend as agents on behalf of the persons interested in opposing the passage of the bylaw or voting in the negative on the question.

(2) A person named in a request under subsection (1) shall not be appointed unless the person is at least 18 years old.

(3) The deputy shall not permit more than one agent for each side of a bylaw or question to be present at the same time at a voting station or at a counting of the votes.

(4) The deputy may designate the place or places at a voting station where an agent may observe the conduct of the election.

(5) Before any agent is appointed, the agent shall make and subscribe before the deputy a statement in the prescribed form.

35 Section 71 presently reads:

71 If a person is appointed as an agent under section 70, the person shall

- (a) *before being admitted as an agent to the voting station during voting hours, or*
- (b) *before being permitted to attend at the voting station for the counting of votes,*

produce to the person in charge of the voting station the person's appointment as an agent and take and subscribe to the official oath in the prescribed form.

36 Section 76 presently reads:

76 The persons authorized to vote at an advance vote are the electors

- (a) *who have reason to believe that they will be unable to attend a voting station during the whole time fixed for the election,*
- (b) *who by reason of physical disability find it impossible or extremely difficult to attend at the regular voting station,*
- (c) *who are officers or constables who have been provided a certificate by the returning officer entitling them to vote under section 83(3) or (4),*
- (d) *who are seniors who live in a seniors' accommodation facility where an institutional voting station is established, or*
- (e) *who for religious reasons are not able to vote on election day.*

37 Section 77.1 presently reads:

77.1(1) An elector who is unable to vote at an advance vote or at the voting station on election day because of

- (a) *physical incapacity,*
- (b) *absence from the local jurisdiction, or*

- (c) *being a returning officer, deputy returning officer, constable, candidate or agent who may be located on election day at a voting station other than that for the elector's place of residence*

may apply to vote by special ballot.

(2) An application for a special ballot may be made

- (a) in writing,*
- (b) by telephone,*
- (c) by telecopier, or*
- (d) in person,*

by an elector to the returning officer of the elector's local jurisdiction at any time between the notice of election day and the closing of voting stations on election day.

(3) On receipt of an application under this section, if the elected authority by resolution before nomination day provides for special ballots, the returning officer or deputy must

- (a) enter in the voting register*
 - (i) the elector's name and the elector's place of residence, and*
 - (ii) the name and number of the voting subdivision for the elector's place of residence,*

and

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

(4) The returning officer must, on request, make available to any candidate or a candidate's agent in the voting substation the names and addresses of those electors in the voting substation who have

applied for and been provided with the appropriate forms under this section.

38 Section 77.2 presently reads:

77.2(1) On receipt of the appropriate forms pursuant to section 77.1(3), the elector must vote by writing, in legible printing in the space provided, the name of the candidates of the elector's choice, but if there is to be a vote on a bylaw or question, the wording must be determined in accordance with section 44 and be supplied as part of the appropriate forms.

(2) After marking the appropriate forms, the voter must

- (a) place them in the ballot envelope,*
- (b) seal the ballot envelope,*
- (c) place the ballot envelope in the certificate envelope,*
- (d) complete and sign Part 1 of the certificate and seal the certificate envelope,*
- (e) place the certificate envelope in the outer envelope, and*
- (f) seal the outer envelope.*

(3) The outer envelope, when sealed, must be forwarded so that it reaches the returning officer not later than the close of the voting station on election day.

(4) On receipt of the outer envelope, the returning officer must remove the certificate envelope and determine

- (a) whether the name on the certificate envelope is the same as that of an individual already recorded in the voting register under this section, and*

(b) whether Part 1 of the certificate is properly completed.

(5) On determining that the voter is recorded in the voting register and whether Part 1 of the certificate is properly completed, the returning officer must,

(a) if the returning officer is satisfied that Part 1 of the certificate is properly completed,

(i) sign Part 2 of the certificate,

(ii) if the elector's name appears on the list of electors for the voting station in which the elector is entitled to vote, enter opposite the name of that person on the list of electors the word "special",

(iii) if the elector's name does not appear on the list of electors for the voting station in which the elector is entitled to vote, enter the elector's name on the list of electors and, opposite the name, the word "special",

(iv) record in the voting register in the appropriate column the date and time the returning officer 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 "special ballot", and

(vi) enter in the voting register, in the appropriate columns, the word "voted" and the reason for using the special ballot, that is, physical incapacity, absence, election officer, candidate or agent,

or

(b) if the returning officer is not satisfied that Part 1 of the certificate is properly completed,

- (i) *retain the certificate envelope unopened,*
- (ii) *treat the ballot in the envelope as a rejected ballot, and*
- (iii) *mark the certificate envelope accordingly.*

(6) At the close of the voting station on election day, the returning officer must deliver the special ballot box to the deputy of the voting station of the electors who have voted under this section in the local jurisdiction and advise the deputy of the names of the electors who have so voted, and the deputy must proceed in accordance with section 85 as if the ballot box were from an advance poll.

(7) After completing the count of the ballots, the deputy must record the results on the prescribed form.

39 Section 77.3 presently reads:

77.3 If an outer envelope is received by a returning officer after the close of the voting station on election day, the ballot it contains must be considered a rejected ballot and the outer envelope must be retained unopened by the returning officer, who must record on it the reason for its rejection.

40 Section 78(6) presently reads:

(6) No candidate or agent shall be present in the voting compartment at the marking of a ballot under this section.

41 Section 81 presently reads:

81 If an institutional vote is provided for, the returning officer shall fix the times on election day at which the votes in the institutions shall be taken, and the deputies, accompanied by candidates and agents, if present, and by an official of the institution, if

available, shall take the votes of any of those patients and residents who express a desire to vote.

42 Section 84(3) presently reads:

(3) Sections 85 and 103 to 115 do not apply when the votes of the electors are taken by any of the means provided for in subsection (1).

43 Section 85 presently reads:

85(1) Immediately after the close of the voting station, the presiding deputy shall in the presence of

(a) at least one and any additional officers that the deputy considers necessary, and

(b) the candidates or agents, if any,

ensure that each ballot box is opened and that the votes are counted.

(2) A deputy shall not permit more than the candidate or the candidate's agent, or more than one agent of either side of a vote on any bylaw or question to be present at the same time in a voting station during the counting of the votes.

44 Section 86(1) presently reads:

86(1) A deputy shall examine the ballots and any ballot

(a) that does not bear the initials of the officer,

(b) on which more votes are cast than an elector is entitled to cast,

(c) on which anything is written or marked by which an elector can be identified,

(d) *that has been torn, defaced or otherwise dealt with by an elector so that the elector can be identified,*

(e) *that is not marked by an "X", or*

(f) *on which no vote has been cast by an elector,*

is void and shall not be counted.

45 Section 87(1) presently reads:

87(1) A deputy shall in the prescribed form make note of any objection made by a candidate or the candidate's agent or in the case of a bylaw or question by any person authorized to attend, to any ballot found in the ballot box and shall decide any question arising out of the objection.

46 Section 88(1) presently reads:

88(1) A deputy shall count the ballots marked for each candidate on the ballots not rejected and the presiding deputy shall prepare a ballot account in the prescribed form with the following information:

(a) *the name of the local jurisdiction;*

(b) *the name or number of the voting subdivision and voting station;*

(c) *the date of the election;*

(d) *the name of each candidate and the number of valid ballots marked for each;*

(e) *the number of ballots supplied;*

(f) *the number of valid ballots;*

(g) *the number of valid ballots objected to;*

(h) *the number of rejected ballots;*

- (i) *the number of ballots rejected because no vote was cast by an elector;*
- (j) *the number of unused ballots;*
- (k) *the number of spoiled ballots;*
- (l) *the number of ballots not accounted for.*

47 Section 89(1) presently reads:

89(1) The ballot account shall be signed by at least 2 deputies involved in the count and may be signed by those of the candidates or their agents present who desire to sign it.

48 Section 90 presently reads:

90 Every presiding deputy at the close of the voting station shall certify in words, in the prescribed form, the number of persons who registered to vote at the voting station at which the deputy was designated to preside.

49 Section 93 presently reads:

93 The presiding deputy shall then place all the packets containing ballots, the voting register, the special ballot certificate envelopes, if any, all statements made on voting day and the list of electors, if any, in the ballot box and the ballot box shall be closed and sealed with a deputy's seal so that it cannot be opened without breaking the seal and marked on the outside with the voting station name or number.

50 Section 94(1) presently reads:

94(1) The presiding deputy personally shall as soon as practicable deliver to the returning officer the sealed ballot box and the ballot account.

51 Section 98 presently reads in part:

98(1) The returning officer may make a recount if

(a) a candidate or an agent of a candidate recognized pursuant to section 69 or, in the case of a vote on a bylaw or question, an agent appointed pursuant to section 70(1) shows grounds that the returning officer considers reasonable for alleging that the record of the result of the count of votes at any voting station is inaccurate, or

(b) the returning officer considers that the number of

(i) valid ballots objected to, or

(ii) rejected ballots other than those on which no vote has been cast by an elector,

was sufficient to affect the result of the election if they had not been counted or rejected, as the case may be.

(2) If the returning officer makes a recount, the returning officer shall

(a) 12 hours before the recount, notify

(i) any candidates who may be affected by the recount or, in the case of a vote on a bylaw or question, one agent in support of the passage of the bylaw or voting in the affirmative on the question and one agent in opposition to the passage of the bylaw or voting in the negative on the question, and

(ii) those officers that the returning officer considers necessary to assist in the recount,

(b) break the seal of the ballot box, and

(c) *proceed to count the ballots contained in it in the same manner as the deputy presiding at the voting station is directed to do.*

52 Section 101 presently reads:

101 The secretary, unless otherwise ordered by a judge, shall retain the ballot boxes with their seals unbroken for 6 weeks from the date of voting and then shall cause the ballot boxes to be opened and their contents destroyed in the presence of 2 witnesses and each of the 2 witnesses shall take an affidavit that the witness has witnessed the destruction of the contents of the ballot boxes.

53 Section 106(1) presently reads:

106(1) The judge, the clerk of the Court, the secretary, the returning officer, each candidate notified to attend the recount, each notified candidate's agent and solicitor and persons permitted by the judge may be present at the recount.

54 Section 108(3) presently reads:

(3) The judge shall take a note of any objection made by a candidate or by the candidate's agent to a ballot, and shall decide any question arising out of the objection, and the decision of the judge is final.

55 Section 118 presently reads in part:

(2) An elected authority may, by a bylaw passed prior to April 15 of a year in which a general election is held require that candidates prepare and disclose to the public audited statements of all their campaign contributions and campaign expenses.

(3) A bylaw passed under subsection (2)

(a) shall define "campaign contributions" and "campaign expenses", and

(b) *may prescribe forms*
for purposes of the bylaw.

56 Section 126(2) presently reads:

(2) *The issue may be raised before the Court by*

(a) *a candidate at the election,*

(b) *any elector*

(i) *if the right to sit is by acclamation, or*

(ii) *if the right to sit is contested on the grounds that a member of the elected authority is ineligible, disqualified or has forfeited the member's seat since the member's election,*

or

(c) *an elector who gave or tendered the elector's vote at the election.*

57 Section 150 presently reads in part:

150(1) Every returning officer, deputy, constable and agent in attendance at a voting station shall maintain and aid in maintaining the secrecy of the voting at the voting station.

(7) No returning officer, deputy or agent in attendance at the counting of the votes shall communicate or attempt to communicate any information obtained at that counting as to which candidate or candidates any vote is given for.

58 Section 152(3) presently reads:

(3) The distribution by or on behalf of a candidate or the candidate's agent of newspapers, pamphlets or other literature containing articles or reports on

matters of public interest is not a contravention of this section.

59 Section 159(2) presently reads:

(2) The Minister may make regulations

- (a) prescribing forms and their contents for use under this Act;*
- (b) respecting standards for ballot boxes;*
- (c) respecting identification indicating that a person is an enumerator, a candidate or a campaign worker.*