

2016 Bill 201

Second Session, 29th Legislature, 65 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 201

ELECTION RECALL ACT

MR. SMITH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 201
Mr. Smith

BILL 201

2016

ELECTION RECALL ACT

(Assented to _____, 2016)

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) “authorized participant” means an authorized participant as defined in section 10;
- (b) “Chief Electoral Officer” means the Chief Electoral Officer appointed under the *Election Act*;
- (c) “financial institution” means a financial institution as defined in the *Election Finances and Contributions Disclosure Act*;
- (d) “Member” means a Member of the Legislative Assembly;
- (e) “recall petition” means a petition issued by the Chief Electoral Officer under this Act for the recall of a Member;
- (f) “voter” means a person who is registered as an elector on the list of electors maintained by the Chief Electoral Officer under the *Election Act* for an electoral division.

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

Part 1 Recall Process

Recall petition

2(1) A person who was a registered voter at the last election in the electoral division where the Member was elected may apply under subsection (2) for the issuance of a petition for the recall of the Member for that electoral division.

(2) An application for the issuance of a recall petition must be made to the Chief Electoral Officer and contain the following information:

- (a) the name of the Member;
- (b) the name and residential address of the applicant;
- (c) a statement, not exceeding 200 words, setting out why, in the opinion of the applicant, the recall of the Member is warranted;
- (d) a solemn declaration of the applicant that he or she is not disqualified under this Act from making the application; and
- (e) any other information that may be required by regulation.

(3) The application for the issuance of a recall petition must be accompanied by a processing fee of \$5000.

(4) No application for the issuance of a recall petition may be made during the 18 months following the day the Member was last elected.

(5) No application may be made if there has been a successful recall petition in the period between general elections.

Issuance of recall petition

3(1) If satisfied that the requirements of section 2 have been met, the Chief Electoral Officer must

- (a) notify the applicant, the Member in relation to whom the petition is to be issued and the Speaker of the Legislative

Assembly that the application has been approved in principle, and

- (b) issue the petition in the form set out in the regulations within 7 days after notice is given in accordance with clause (a).

(2) A recall petition must be signed within 60 days from the date on which it is issued by the Chief Electoral Officer under subsection (1)(b).

(3) Once an application has received approval in principle, it may be inspected at the office of the Chief Electoral Officer during the office's regular hours.

Who may sign a recall petition

4(1) In order to sign a recall petition,

- (a) an individual's name must appear on the post-polling day list of electors for the electoral division for which the Member was elected on polling day for the last election of the Member, and
- (b) on the date he or she signs the petition, the individual must be a qualified elector for an electoral division in Alberta.

(2) An individual may sign a particular recall petition only once.

(3) An individual who signs a recall petition must also indicate his or her residential address on the petition.

Who may canvass for signatures

5(1) A person may canvass for signatures on a recall petition if, before the date on which he or she begins canvassing, the person is qualified to be an elector in Alberta and the person has registered his or her name and residential address with the Chief Electoral Officer.

(2) No person shall, directly or indirectly, accept any inducement for the canvassing of signatures for a recall petition.

(3) No person shall, directly or indirectly, pay, give, lend or procure any inducement for a person who canvasses for signatures on a recall petition.

Requirements for recall petition

- 6(1)** A recall petition must be submitted to the Chief Electoral Officer within 60 days after the date on which the petition was issued under section 3.
- (2)** The petition must be signed by a number of individuals equalling or exceeding 66% of the number of people who cast ballots in that electoral division in the last general election.
- (3)** The petition must consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.
- (4)** The 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 residential 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 signs the petition.
- (5)** Each signature must be witnessed by an adult person who must
 - (a)** sign opposite the signature of the petitioner or sign once on every page for which he or she is a witness, and
 - (b)** take an affidavit that to the best of the person's knowledge the signatures witnessed are those of persons entitled to sign the petition.
- (6)** The petition must have attached to it a signed statement of a person stating that
 - (a)** the person is the representative of the petitioners, and
 - (b)** the Chief Electoral Officer may direct any inquiries about the petition to that representative.
- (7)** The Chief Electoral Officer shall inform the applicant in writing of the number of people who cast ballots in the electoral division in the last election.

Counting petitioners

7(1) The Chief Electoral Officer is responsible for determining if a petition submitted pursuant to section 6 has been signed by a sufficient number of qualified individuals.

(2) No name may be added to or removed from a petition after it has been filed with the Chief Electoral Officer.

(3) In counting the number of petitioners on a petition, there must be excluded the name of a person

(a) whose signature is not witnessed in accordance with section 6(5)(a),

(b) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition,

(c) whose printed name is not included or is incorrect,

(d) whose residential street address or legal description of land is not included or is incorrect, or

(e) if the date when the person signed the petition is not stated.

(4) If 5000 or more petitioners are necessary to make a petition sufficient, the Chief Electoral Officer may use a random statistical sampling method with a 95% confidence level to determine the sufficiency of the petition instead of counting and verifying each petitioner.

Time limit for determination

8 When a recall petition is submitted to the Chief Electoral Officer, he or she must determine within 21 days and in accordance with the regulations, if any, whether the petition meets the requirements of sections 6 and 7.

Result of successful recall petition

9(1) If the Chief Electoral Officer determines that the recall petition meets the requirements of sections 6 and 7, the Chief Electoral Officer must report the finding to the Member, the Speaker and the Clerk of the Assembly.

(2) Upon receipt of the notification from the Chief Electoral Officer under subsection (1), the seat of the Member is to be declared vacant.

Part 2

Recall Petition Financing

Authorized participants must have a chief financial officer

10(1) The authorized participants for a recall petition are

- (a) the proponent of the petition, and
- (b) the Member who is the subject of the petition.

(2) An authorized participant may only accept recall petition contributions and incur recall petition expenses through his or her chief financial officer.

(3) Subsection (2) does not apply with respect to the personal recall expenses of an authorized participant.

Appointment of chief financial officer

11(1) For the purposes of this Part, an authorized participant may act as his or her own chief financial officer or may appoint another individual as chief financial officer.

(2) The following are disqualified from acting as chief financial officer:

- (a) an election official, a voter registration official or an individual who is employed by or has a contract of service with the Chief Electoral Officer;
- (b) an individual who does not have full capacity to enter into contracts;
- (c) an individual who at any time within the previous 7 years has been convicted of an offence under this Act, the *Election Act* or the *Election Finances and Contributions Disclosure Act*.

(3) The appointment of a chief financial officer must be made in writing and must

- (a) include the name, mailing address and telephone number of the individual appointed and the effective date of the appointment, and
- (b) be accompanied by

- (i) a signed consent of the individual appointed to act as chief financial officer, and
- (ii) a signed statement of the individual appointed that he or she is not disqualified from acting as chief financial officer.

(4) As soon as practicable the following must be delivered to the Chief Electoral Officer:

- (a) a statement as to whether or not the proponent or Member is acting as his or her own chief financial officer;
- (b) if the proponent or Member is not acting as his or her own chief financial officer, a copy of the appointment and the consent and statement referred to in subsection (3)(b);
- (c) an address to which notices under this Act may be delivered to the chief financial officer or the authorized participant.

(5) If there is any change in who is the chief financial officer for an authorized participant, the authorized participant must as soon as possible notify the Chief Electoral Officer of that change and, for these purposes, must deliver notice in accordance with subsection (4)(a) to (c).

General obligations of chief financial officer

12(1) Without limiting the obligations of a chief financial officer of an authorized participant under any other provision of this Act, a chief financial officer must do the following:

- (a) ensure that all recall contributions, recall expenses and other income and expenditures in relation to the recall petition are properly recorded to allow compliance with the reporting requirements of this Act and the regulations;
- (b) ensure that all money received by or on behalf of the authorized participant in relation to a recall petition is deposited in an account in a financial institution and that all expenditures of the authorized participant are paid from an account in a financial institution;
- (c) ensure that all records required to be kept for the purposes of this Act by the authorized participant are maintained in Alberta;
- (d) ensure that all financial records and receipts of the authorized participant in relation to this Act are retained for

at least 6 years from the date of filing of any report under this Act required in relation to them.

(2) A chief financial officer is not personally liable for any liability of the authorized participant for whom the officer is acting unless the liability is personally guaranteed by the chief financial officer.

Finance reporting

13(1) Sixty days after the recall petition is provided to the Chief Electoral Officer, the chief financial officer must send a report to the Chief Electoral Officer indicating

- (a) the amount of donations and contributions,
- (b) the amount of expenditures of the recall initiative campaign,
- (c) the amount remaining, and
- (d) any other information required to be submitted by the Chief Electoral Officer.

(2) If there is no petition submitted to the Chief Electoral Officer under section 6, then 120 days after the petition is approved in principle under section 3, the chief financial officer must report to the Chief Electoral Officer with the information to be provided under subsection (1).

Excess funds

14(1) Any funds remaining at the conclusion of a recall initiative campaign must be held in trust.

(2) If there are funds remaining and the funds are recorded in the financial report prepared under section 13, an authorized participant may indicate in writing to the Chief Electoral Officer that he or she wants the funds transferred to a registered political party, a registered constituency association or a candidate or all or any of them.

(3) No funds may be transferred under subsection (2) until the Chief Electoral Officer indicates in writing that the financial report provided under section 13 is acceptable and complete.

(4) As part of a review of the financial report the Chief Electoral Officer may require that an audited financial report be prepared of the recall contributions and expenses.

(5) If the Chief Electoral Officer indicates to the authorized participant that the financial report is acceptable, the funds remaining may be transferred as stated in the notice provided under subsection (2).

Part 3 Offence, Regulations, Amendment and Coming into Force

Offence

15 No person shall

- (a) make a false or misleading statement concerning the contents or effect of a recall petition,
- (b) directly or indirectly accept any inducement for canvassing for signatures on a recall petition,
- (c) refuse to allow another person to read the recall petition, or
- (d) affix a false or forged signature on a recall petition.

Penalties

16(1) A person who contravenes sections 5(2) or (3), 10(2), 12(1), 13(1) or (2) or 15 is guilty of an offence and liable to a fine of not more than \$10 000.

Regulations

17 The Lieutenant Governor in Council, on the recommendation of the Standing Committee on Legislative Offices, may make regulations

- (a) concerning additional information required under section 2 in an application for the issuance of a recall petition;
- (b) establishing the form of the petition to be issued under section 3;
- (c) establishing criteria for determining whether a petition is acceptable;
- (d) establishing recording and reporting criteria for financial contributions under section 12;
- (e) prescribing fees for the purposes of this Act;

- (f) generally, for all matters necessary for the application and operation of this Act.

Amends RSA 2000 cL-9

18 The *Legislative Assembly Act* is amended in section 32(2) by adding “or 3 months if the vacancy is created as a result of a successful recall petition under the *Recall Act*” after “Chief Electoral Officer.”

Coming into Force

19 This Act comes into force 3 months after the day on which it receives Royal Assent.

Explanatory Notes

18 Amends chapter L-9 of the Revised Statutes of Alberta 2000.
Section 32(2) presently reads:

(2) Within 6 months after the delivery of the warrant to the Chief Electoral Officer, an order shall be made under section 39 of the Election Act authorizing the issue of a writ for an election to fill the vacancy.

19 Coming into force.

