

2018 Bill 16

Fourth Session, 29th Legislature, 67 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 16

**ELECTION FINANCES AND
CONTRIBUTIONS DISCLOSURE
STATUTES AMENDMENT ACT, 2018**

THE MINISTER OF LABOUR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 16

2018

ELECTION FINANCES AND CONTRIBUTIONS DISCLOSURE STATUTES AMENDMENT ACT, 2018

(Assented to _____, 2018)

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

An Act to Strengthen and Protect Democracy in Alberta

Amends SA 2017 c29

1(1) *An Act to Strengthen and Protect Democracy in Alberta* is amended by this section.

(2) Section 132 is amended

(a) in the new section 44.95

(i) by striking out “and” at the end of clause (a);

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

(a.1) may, at any time, conduct an investigation into whether 2 or more registered parties are associated registered parties on the Election Commissioner’s own initiative or at the request of

(i) the Chief Electoral Officer,

Explanatory Notes

An Act to Strengthen and Protect Democracy in Alberta

1(1) Amends chapter 29 of the Statutes of Alberta, 2017.

(2) Section 132 presently reads:

132 The following is added before Part 7:

Part 6.3

Election Commissioner

Duties of Election Commissioner

44.95 The Election Commissioner, in addition to the Election Commissioner's powers and duties under the Election Act,

- (a) may conduct periodic investigations of the financial affairs and records of*
 - (i) registered parties and registered constituency associations,*
 - (ii) registered candidates in relation to election campaigns,*

- (ii) an elector, or
 - (iii) a registered party,
- and

(b) in the new section 44.97

(i) by renumbering subsection (1) as subsection (1.1);

(ii) by adding the following before subsection (1.1):

44.97(1) At any time before completing an investigation referred to in section 44.95(a.1), the Election Commissioner shall notify any registered party who is a subject of the investigation that the registered party is being investigated to determine whether it is associated with any other registered party.

(iii) in subsection (4) by striking out “section 44.95(b)” and substituting “section 44.95(a.1) or (b)”.

- (iii) *registered leadership contestants in relation to leadership contests,*
 - (iv) *registered nomination contestants in relation to nomination contests, and*
 - (v) *registered third parties in relation to election advertising or political advertising under Part 6.1,*
- and*
- (b) *may, on the Election Commissioner's own initiative or at the request of the Chief Electoral Officer or another person or organization, conduct an investigation into any matter that might constitute an offence under this Act.*

Powers of Election Commissioner

44.96(1) For the purpose of conducting an investigation referred to in section 44.95, the Election Commissioner has all the powers of a commissioner under the Public Inquiries Act as though the investigation were an inquiry under that Act.

(2) For the purpose of conducting an investigation referred to in section 44.95, a representative of the Election Commissioner, on production of the representative's authorization from the Election Commissioner, may at any reasonable time enter any premises referred to in the authorization in which books or documents of a political party, constituency association, candidate, nomination candidate, leadership contestant or third party relevant to the subject-matter of the investigation are kept and may examine and make copies of the books or documents or remove them temporarily for the purpose of making copies.

(3) Before entering a private dwelling or a part of premises used as a private dwelling to carry out the powers described in subsection (2), a representative of the Election Commissioner shall

- (a) obtain the consent of the occupant or the legal representative of the occupant of the private dwelling or the part of the premises used as a private dwelling, or*
- (b) obtain an order from the Court.*

(4) A registered party, registered constituency association, registered candidate, registered nomination contestant, registered

leadership contestant or registered third party shall, within 30 days after receiving a written request from the Election Commissioner or within an extended period that the Election Commissioner may determine, provide any information with respect to the financial affairs of the registered party, registered constituency association, registered candidate, registered nomination contestant, registered leadership contestant or registered third party that is reasonably required by the Election Commissioner in the course of the Election Commissioner's duties under this Act.

Notice of investigation and conclusion

44.97(1) At any time before completing an investigation referred to in section 44.95(b), the Election Commissioner shall notify any person or organization who is the subject of the investigation that the person or organization is being investigated and inform the person or organization of the nature of the matter being investigated, unless the Election Commissioner believes that doing so would compromise or impede the investigation.

(2) The Election Commissioner may refuse to conduct or may cease an investigation if the Election Commissioner is of the opinion that

- (a) the matter is frivolous or vexatious, or*
- (b) there are no grounds or insufficient grounds to warrant an investigation or the continuation of an investigation.*

(3) The Election Commissioner shall not make any adverse finding against a person or organization unless that person or organization has had reasonable notice of the substance of the allegations and a reasonable opportunity to present his or her or its views.

(4) If the Election Commissioner refuses to conduct or ceases an investigation under subsection (2), or determines that no offence was committed, the Election Commissioner

- (a) shall provide notice of that decision to*
 - (i) every person or organization who*
 - (A) is the subject of the investigation, or*

**Election Finances and
Contributions Disclosure Act**

Amends RSA 2000 cE-2

2(1) The *Election Finances and Contributions Disclosure Act* is amended by this section.

(2) Section 32 is amended

(a) in subsection (3) by striking out “but in the case of a registered party returns under clauses (a) and (b) shall not include the information relating to contributions made during the campaign period”;

(b) in subsection (4) by striking out “Every” **and substituting** “Subject to subsection (4.01), every”;

(c) by adding the following after subsection (4):

(4.01) Contributions received by a registered party during the campaign period for a by-election shall only be included in a report prepared under subsection (4) if those contributions relate to the by-election.

(B) would have been the subject of an investigation if the Election Commissioner had not refused to conduct an investigation,

and

(ii) every person or organization who requested an investigation, if any,

and

(b) may, as the Election Commissioner considers to be appropriate, provide notice of that decision to any other person or organization involved in the matter referred to in section 44.95(b).

Election Finances and Contributions Disclosure Act

2(1) Amends chapter E-2 of the Revised Statutes of Alberta 2000.

(2) Section 32 presently reads in part:

32(3) Every registered party and registered constituency association shall file with the Chief Electoral Officer, in the form and manner approved by the Chief Electoral Officer,

(a) within 15 days after the end of each quarter of each year a return setting out

(i) the total amount of all contributions received during the quarter that did not exceed \$50 in the aggregate from any single contributor, and

(ii) the total amount contributed, together with the contributor's name and address, when the contribution of that contributor during the quarter exceeded an aggregate of \$50,

and

(3) Section 41.2 is amended by adding the following after subsection (5):

(6) If, after completing an investigation referred to in section 44.95(a.1), the Election Commissioner decides that registered parties are associated registered parties, those registered parties shall be considered a single registered party for the purposes of subsections (1) and (2).

(7) Registered parties are associated registered parties if they are so closely connected that electoral fairness requires that they be subject to a single, combined expense limit.

(8) In determining whether registered parties are closely connected for the purposes of subsection (7), the Election Commissioner shall consider all information relevant to determining whether registered parties are closely connected, including, as applicable, the following:

- (a) the organization of the registered parties, including
 - (i) whether the registered parties have the same
 - (A) leader,
 - (B) executive director or person in a position similar to an executive director, or
 - (C) chief financial officer,

(b) *within the period during which an annual financial statement must be filed under section 42, a return setting out for the previous year*

(i) *the total amount of all contributions received that did not exceed \$50 in the aggregate from any single contributor, and*

(ii) *the total amount contributed that, together with the contributor's name and address, when the contribution of that contributor during the year exceeded an aggregate of \$50,*

but in the case of a registered party returns under clauses (a) and (b) shall not include the information relating to contributions made during the campaign period.

(3) Section 41.2 presently reads in part:

41.2(1) No registered party and no chief financial officer of a registered party shall incur election expenses in respect of a general election that exceed in the aggregate \$2 000 000 as adjusted under section 41.5.

(2) No registered party and no chief financial officer of a registered party shall incur election expenses in respect of a by-election for an electoral division that exceed in the aggregate \$23 000 as adjusted in accordance with section 41.5.

(5) For the purposes of subsections (1) and (2),

(a) an election expense incurred by a registered party on behalf of 2 or more registered candidates is an election expense incurred by the registered party, and

(b) an election expense incurred by a registered constituency association on behalf of its registered party is an election expense incurred by the registered party.

and

- (ii) whether any of the principal officers or employees of the registered parties are the same person;
- (b) any interactions or agreements between the registered parties, including interactions or agreements that may indicate that any one of the registered parties is under the control of any of the other registered parties;
- (c) the activities of the registered parties and their registered constituency associations and candidates, including the extent to which the registered parties have been involved in electoral campaigns or made public statements in support of any other registered party or registered parties, or of a candidate of any of the other registered parties;
- (d) the registered parties' political programs, advertising material and policy statements.

(4) Section 41.42 is amended by adding the following after subsection (2):

- (3)** A registered party shall not circumvent, or attempt to circumvent, an expense limit set out in this Part by colluding with any other registered party.

(5) The following is added after section 41.42:

(4) Section 41.42 presently reads:

41.42(1) A registered party, registered candidate, registered nomination contestant or registered leadership contestant shall not circumvent, or attempt to circumvent, an expense limit set out in this Part or a contribution limit under Part 3 by colluding with a third party.

(2) A third party shall not collude with a registered party, registered candidate, registered nomination contestant or registered leadership contestant to circumvent, or attempt to circumvent, an expense limit set out in this Part or a contribution limit under Part 3.

(5) Avoidance of expense limit.

Avoidance of expense limit

41.43 A political party shall not apply to become a registered party or use its status as a registered party for the purpose of circumventing, or attempting to circumvent, an expense limit set out in this Part.

(6) Section 42(2) is repealed.

(7) Section 44.1(1)(d.1) is amended

- (a) in subclause (i) by striking out “or”;**
- (b) in subclause (ii) by adding “, or” after “polling day”;**
- (c) by adding the following after subclause (ii):**
 - (iii) in the case of a by-election, the period commencing with the issue of a writ for the by-election and ending at the end of the polling day;

(8) Section 48.1 is amended

- (a) in subsection (1) by striking out “\$10 000” and substituting “\$100 000”;**
- (b) by adding the following after subsection (1):**
 - (1.1)** Registered parties that are considered a single registered party under section 41.2(6), or the chief financial officers of those registered parties, who contravene section 41.2 are guilty of an offence and liable to a fine of not more than \$100 000.
- (c) in subsections (2) and (3) by striking out “\$5000” and substituting “\$10 000”.**

(6) Section 42(2) presently reads:

42(2) If a political party or constituency association becomes registered under this Act within the last 4 months of any year, the financial statement filed with its application for registration is deemed to be in compliance with subsection (1) in relation to that year.

(7) Section 44.1(1) presently reads in part:

44.1(1) In this Part and in section 9.1,

(d.1) “election advertising period” means

- (i) in the case of a general election held in accordance with section 38.1(2) of the Election Act, the period commencing December 1 in the year immediately preceding the year in which a general election is held and ending at the end of the polling day, or*
- (ii) in the case of a general election held other than in accordance with section 38.1(2) of the Election Act, the period commencing with the issue of a writ for the election and ending at the end of the polling day;*

(8) Section 48.1 presently reads:

48.1(1) A registered party, or the chief financial officer of a registered party, who contravenes section 41.2 is guilty of an offence and liable to a fine of not more than \$10 000.

(2) A registered candidate, or the chief financial officer of a registered candidate, who contravenes section 41.3 is guilty of an offence and liable to a fine of not more than \$5000.

(3) A registered nomination contestant, or the chief financial officer of a registered nomination contestant, who contravenes section 41.4 is guilty of an offence and liable to a fine of not more than \$5000.

(9) The following is added after section 48.1:

Circumvention of expense limits

48.11(1) A registered party, registered candidate, registered nomination contestant, registered leadership contestant or third party who contravenes section 41.42 is guilty of an offence and liable to a fine of not more than \$100 000.

(2) A political party that contravenes section 41.43 is guilty of an offence and liable to a fine of not more than \$100 000.

(10) Subsections (3) and (8) come into force on Proclamation.

(9) Circumvention of expense limits.

(10) Coming into force.

