

2020 Bill 26

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Second Session, 30th Legislature, 69 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 26**

## **CONSTITUTIONAL REFERENDUM AMENDMENT ACT, 2020**

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THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 26*

## **BILL 26**

2020

### **CONSTITUTIONAL REFERENDUM AMENDMENT ACT, 2020**

*(Assented to , 2020)*

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

**Amends RSA 2000 cC-25**

**1 The *Constitutional Referendum Act* is amended by this Act.**

**2 The title and chapter number of the Act are repealed and the following is substituted:**

#### **REFERENDUM ACT**

Chapter R-8.4

**3 Section 4(1) is amended by adding “ordered under section 1 or 2” after “cast at a referendum”.**

**4 The following is added after section 5:**

**Holding non-constitutional referendums**

**5.1(1)** If the Lieutenant Governor in Council considers that an expression of public opinion is desirable on any matter of public

## Explanatory Notes

**1** Amends chapter C-25 of the Revised Statutes of Alberta 2000.

**2** The title and chapter number of the Act presently read:

*CONSTITUTIONAL REFERENDUM ACT*  
*Chapter C-25*

**3** Section 4(1) presently reads:

*4(1) If a majority of the ballots validly cast at a referendum vote the same way on a question stated, the result is binding, within the meaning of subsection (2), on the government that initiated the referendum.*

**4** Holding non-constitutional referendums; when referendum binding; vote by mail-in ballot.

interest or concern, other than a question or resolution referred to in section 1 or 2, the Lieutenant Governor in Council may order that a referendum be conducted in accordance with this Act and the regulations.

**(2)** An order under subsection (1) shall specify

- (a) the question or questions that are to be put to the electors,
- (b) whether the referendum is to be held
  - (i) in conjunction with a general election under the *Election Act*,
  - (ii) separately as a stand-alone referendum on a date provided in the order, or
  - (iii) in conjunction with the general elections under the *Local Authorities Election Act*,
- (c) the areas of Alberta in which the referendum is to be held,
- (d) whether the results of the referendum are to be binding, and
- (e) whether the referendum is to be conducted by mail-in ballot.

**When referendum binding**

**5.2(1)** If the Lieutenant Governor in Council has specified that the results of a referendum ordered under section 5.1 are to be binding and a majority of the ballots validly cast at the referendum vote the same way on a question stated, the result is binding, within the meaning of subsection (2), on the government that initiated the referendum.

**(2)** If the results of a referendum are binding, the government that initiated the referendum shall, as soon as practicable, take any steps within the competence of the Government of Alberta that it considers necessary or advisable to implement the results of the referendum.



**Vote by mail-in ballot**

**5.3** Where a referendum is ordered under section 5.1 to be held as a stand-alone referendum on a date provided in the order, the referendum may be conducted by mail-in ballot in accordance with the regulations.

**5 Section 6 is amended**

**(a) in subsection (1) by adding “or 5.1(2)(b)(ii)” after “section 5(b)”;**

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

**(3)** If a referendum is to be held in conjunction with the general elections under the *Local Authorities Election Act*, section 134.1(3.1) of the *Election Act* applies.

**6 Section 7(1) is amended by striking out “Local Authorities Election Act and” and substituting “Local Authorities Election Act, except Parts 5.1 and 8, and”.**

**7 The following is added after section 7:**

**Application of Election Finances and Contributions Disclosure Act**

**7.1** For greater certainty, the *Election Finances and Contributions Disclosure Act* applies to every referendum held under this Act, irrespective of whether the referendum is held in conjunction with a general election under the *Election Act*, separately on a date provided for under section 5(b) or 5.1(2)(b)(ii) or in conjunction with the general elections under the *Local Authorities Election Act*.

**8 Section 10 is amended**

**(a) in clause (a) by striking out “adding to and declaring any provisions of those Acts and regulations to be or not to be applicable to the referendum” and substituting “specifying**

**5** Section 6 presently reads:

*6(1) If a referendum is to be held in conjunction with a general election under the Election Act or separately on a date provided for under section 5(b), the Election Act and the regulations under it apply, with all necessary modifications, to the referendum except as otherwise provided by the regulations under this Act.*

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

**6** Section 7(1) presently reads:

*7(1) If a referendum is to be held in conjunction with the general elections under the Local Authorities Election Act, the Local Authorities Election Act and the regulations under it apply, with all necessary modifications, to the referendum except as otherwise provided by the regulations under this Act.*

**7** Application of Election Finances and Contributions Disclosure Act.

**8** Section 10 presently reads in part:

*10 The Lieutenant Governor in Council may make regulations*

*(a) modifying the provisions of the Election Act and the Local Authorities Election Act and the regulations under those Acts*

or setting out provisions applicable to referendums in addition to, or instead of, any provisions of those Acts and regulations”;

**(b) by adding the following after clause (a):**

- (a.1) for the purpose of conducting a referendum ordered under section 5.1 by mail-in ballot, providing that any provision of the *Election Act* applies to the referendum with the modifications set out in the regulations or specifying or setting out provisions applicable to the referendum in addition to, or instead of, any provision of the *Election Act*;

### **Related Amendments**

#### **Alberta Taxpayer Protection Act**

**Amends RSA 2000 cA-36**

**9(1) The *Alberta Taxpayer Protection Act* is amended by this section.**

**(2) Section 4 is amended**

- (a) **in subsection (1) by striking out** “Sections 4 to 11 of the *Constitutional Referendum Act*” **and substituting** “Sections 4, 5 and 6 to 11 of the *Referendum Act*”;
- (b) **in subsection (2) by striking out** “*Constitutional*”.

#### **Election Act**

**Amends RSA 2000 cE-1**

**10(1) The *Election Act* is amended by this section.**

**(2) Section 134.1 is amended**

- (a) **in subsection (1) by adding the following after clause (d):**
- (e) “referendum period” means



*to make them applicable to the requirements of a referendum, including adding to and declaring any provisions of those Acts and regulations to be or not to be applicable to the referendum;*

## **Related Amendments**

### **Alberta Taxpayer Protection Act**

**9(1)** Amends chapter A-36 of the Revised Statutes of Alberta 2000.

(2) Section 4 presently reads:

*4(1) Sections 4 to 11 of the Constitutional Referendum Act apply to a referendum held under this Act.*

*(2) An order under section 2 of this Act is deemed to be an order under section 1 of the Constitutional Referendum Act for the purposes of section 5 of that Act.*

### **Election Act**

**10(1)** Amends chapter E-1 of the Revised Statutes of Alberta 2000.

(2) Section 134.1 presently reads in part:

*134.1(1) In this section and section 134.2,*

*(d) "Provincial corporation" means a Provincial corporation as defined in the Financial Administration Act.*

- (i) in the case of a referendum under the *Referendum Act* ordered to be held in conjunction with a general election under this Act or as a stand-alone referendum on a date provided in the order, the period commencing when the order is issued and ending at the end of polling day, and
- (ii) in the case of a referendum under the *Referendum Act* ordered to be held in conjunction with a general election under the *Local Authorities Election Act*, the period commencing on the later of
  - (A) the day on which the order is issued, and
  - (B) 60 days before election day,
 and ending at the end of election day.

**(b) by adding the following after subsection (3):**

**(3.1)** During a referendum period, a department or a Provincial corporation shall not advertise or publish any information about its programs or activities related to the subject-matter of the referendum that has a disproportionate impact on voters in the areas of Alberta in which the referendum is being held unless the advertisement or publication

- (a) is required by law,
- (b) is required at that time
  - (i) to solicit proposals or tenders for contracts or applications for employment, or
  - (ii) because it relates to important matters of public health or safety,
- (c) is a continuation of earlier publications or advertisements and is required for ongoing programs of a department or a Provincial corporation, or
- (d) occurs at a time when the Legislative Assembly is not dissolved and deals with a matter before the Assembly such as the Speech from the Throne, the budget, the introduction or passage of a Bill or an order or resolution of the Assembly.

*(3) During a by-election period, a department or a Provincial corporation shall not advertise or publish any information about its programs or activities that has a disproportionate impact on voters in the electoral division in which the by-election is being held unless the advertisement or publication*

*(a) is required by law,*

*(b) is required at that time*

*(i) to solicit proposals or tenders for contracts or applications for employment, or*

*(ii) because it relates to important matters of public health or safety,*

*(c) is a continuation of earlier publications or advertisements and is required for ongoing programs of a department or a Provincial corporation, or*

*(d) deals with a matter before the Legislative Assembly such as the Speech from the Throne, the budget, the introduction or passage of a Bill or an order or resolution of the Assembly.*

**Election Finances and Contributions  
Disclosure Act**

**Amends RSA 2000 cE-2**

**11(1) The *Election Finances and Contributions Disclosure Act* is amended by this section.**

**(2) Section 1 is amended**

**(a) in subsection (1) by repealing clause (k) and substituting the following:**

(k) “polling day” means the day fixed pursuant to the *Election Act*, the *Alberta Senate Election Act* or the *Referendum Act* for voting at an election or referendum, as the case may be;

**(b) in subsection (1.1) by striking out “Part 6.1 or 6.11” and substituting “Part 6.1, 6.11 or 6.12”.**

**(3) Section 4(1)(b)(iii) is amended**

**(a) by striking out “Part 6.1 and” and substituting “Part 6.1,”;**

**(b) by striking out “Part 6.11” and substituting “Part 6.11 and in relation to referendum advertising under Part 6.12”.**

**(4) Section 9.1(1)(a) is amended**

**(a) by striking out “Part 6.1 or” and substituting “Part 6.1,”;**

**(b) by striking out “Part 6.11” and substituting “Part 6.11 or referendum advertising referred to in Part 6.12”.**

**(5) Section 10 is amended by adding the following after subsection (4.2):**

**(4.3) If the chief financial officer of a third party fails to file a weekly report under section 44.949999, a referendum advertising**

## **Election Finances and Contributions Disclosure Act**

**11(1)** Amends chapter E-2 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

*1(1) In this Act,*

*(k) “polling day” means the day fixed pursuant to the Election Act or the Alberta Senate Election Act for voting at an election, as the case may be;*

*(1.1) Definitions of terms in Part 6.1 or 6.11 apply, as the case may be, to those terms where used in the rest of this Act.*

(3) Section 4(1) presently reads in part:

*4(1) The Chief Electoral Officer, in addition to the Chief Electoral Officer’s other powers and duties under this Act, the Election Act and the Alberta Senate Election Act,*

*(b) may inquire into the financial affairs and records of*

*(iii) registered third parties in relation to election advertising or political advertising under Part 6.1 and in relation to senatorial selection advertising under Part 6.11;*

(4) Section 9.1(1)(a) presently reads:

*9.1(1) A third party shall apply for registration under this section*

*(a) when it has incurred expenses of \$1000 or plans to incur advertising expenses of at least \$1000 for election advertising or political advertising referred to in Part 6.1 or senatorial selection advertising referred to in Part 6.11, or*

(5) Section 10 presently reads in part:

*(4.2) If the chief financial officer of a third party fails to file a weekly report under section 44.9497, a senatorial selection advertising return or report under section 44.9498 or an audited*

return or report under section 44.9499991 or an audited financial statement under section 44.9499992, the Chief Electoral Officer may cancel the registration of the third party.

**(6) Section 41.5 is amended**

- (a) in subsection (2) by striking out “44.11 and 44.942” and substituting “44.11, 44.942 and 44.94994”;**
- (b) in subsection (3) by striking out “44.11 and 44.942” and substituting “44.11, 44.942 and 44.94994”.**

**(7) The following is added after section 44.94992:**

**Part 6.12  
Third Party Advertising  
— Referendum Act**

**Definitions**

**44.94993(1)** In this Part,

- (a) “expenses” means
  - (i) amounts paid,
  - (ii) liabilities incurred,
  - (iii) subject to subsection (2), the market value of real property, goods and services that are donated or provided, and
  - (iv) subject to subsection (2), amounts that represent the difference between an amount paid or a liability incurred for real property, goods or services and the market value of the real property, goods or services, when they are provided at less than their market value;

*financial statement under section 44.9499, the Chief Electoral Officer may cancel the registration of the third party.*

(6) Section 41.5 presently reads in part:

*(2) Effective January 1 after polling day of the first general election following the coming into force of this section, the Chief Electoral Officer shall adjust each of the amounts referred to in sections 17, 18, 41(6), 41.2, 41.3, 44.11 and 44.942 by the percentage increase, if any, to the consumer price index for the period beginning January 1, 2017 and ending on December 31 of the year in which the general election was held.*

*(3) After each subsequent general election, the Chief Electoral Officer shall further adjust each of the amounts referred to in sections 17, 18, 41(6), 41.2, 41.3, 44.11 and 44.942 by the percentage increase, if any, to the consumer price index for the period beginning on the effective date of the prior adjustment and ending on December 31st of the year the general election was held.*

(7) Part 6.12 Third Party Advertising — Referendum Act.

- (b) “group” means an unincorporated group of persons or corporations acting in consort for a common purpose and includes a trade union and an employee organization or any combination of persons, corporations, trade unions or employee organizations;
- (c) “referendum advertising” means, subject to subsection (3), the transmission to the public by any means during the referendum advertising period of an advertising message that promotes or opposes a question in a referendum, and for greater certainty does not include
  - (i) the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news,
  - (ii) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be a referendum,
  - (iii) the transmission of a document or the communication directly by a corporation or a group to its members, employees or shareholders, as the case may be,
  - (iv) the transmission by a person, corporation or group, on a non-commercial basis on the Internet, of the political views of that person, corporation or group,
  - (v) the making of telephone calls to electors only to encourage them to vote, or
  - (vi) advertising by the Government in any form;
- (d) “referendum advertising account” means the account on record with the Chief Electoral Officer for the purpose of accepting advertising contributions for referendum advertising and for the payment of referendum advertising expenses for referendum advertising;
- (e) “referendum advertising contribution” means, subject to subsection (4),





- (i) money provided to or for the benefit of a third party, or
  - (ii) real property, goods or services, or the use of real property, goods or services, provided to or for the benefit of a third party,
- without compensation from that third party, for the purpose of referendum advertising, whether provided before or after the third party becomes registered under section 9.1;
- (f) “referendum advertising expense” means an expense incurred in relation to
    - (i) the production of a referendum advertising message in the format in which the message is to be transmitted, and
    - (ii) the acquisition of the means of transmission to the public of a referendum advertising message;
  - (g) “referendum advertising period” means
    - (i) in the case of a referendum under the *Referendum Act* ordered to be held in conjunction with a general election under the *Election Act* or as a stand-alone referendum on a date provided in the order, the period commencing when the order is issued and ending at the end of polling day, and
    - (ii) in the case of a referendum under the *Referendum Act* ordered to be held in conjunction with a general election under the *Local Authorities Election Act*, the period commencing when the order is issued and ending at the end of election day;
  - (h) “registered third party” means a third party registered under section 9.1;
  - (i) “third party” means a person, corporation, group, the Government of Canada or the government of another province or territory of Canada, but does not include the following:
    - (i) a registered party;
    - (ii) a registered constituency association;



- (iii) a registered candidate or member of the Legislative Assembly;
- (iv) a registered nomination contestant;
- (v) a registered leadership contestant.

**(2)** For the purposes of subsection (1)(a)(iii) and (iv), “services” does not include volunteer labour provided by a person, so long as that person does not receive from the person’s employer, or any other person, compensation or paid time off to volunteer but, for greater certainty, does include services provided by a person who is self-employed if the services are normally charged for by that person.

**(3)** For the purposes of subsection (1)(c), “referendum advertising” includes organizing events where a significant purpose of the event is to promote or oppose a referendum question.

**(4)** For the purposes of subsection (1)(e), “services” does not include

- (a) volunteer labour provided by a person, so long as that person does not receive from the person’s employer, or any other person, compensation or paid time off to volunteer,
- (b) audit and professional services provided free of charge for work relating to compliance with this Act,
- (c) services provided free of charge by a person acting as the chief financial officer of the recipient of the services for work relating to compliance with this Act, or
- (d) services that a third party provides in support of its own campaign,

but, for greater certainty, does include services provided by a person who is self-employed if the services are normally charged for by that person.

**(5)** The Chief Electoral Officer may issue guidelines respecting the application of this Part and shall publish any guidelines on the Chief Electoral Officer’s website.



**Referendum advertising spending limit**

**44.94994(1)** A registered third party shall not incur referendum advertising expenses in an amount of more than \$500 000 in the aggregate, as adjusted in accordance with section 41.5, in relation to a referendum advertising period.

(2) A third party shall not circumvent, or attempt to circumvent, a limit set out in this section in any manner, including by splitting itself into 2 or more third parties for the purpose of circumventing a limit or acting in collusion with another third party so that their combined referendum advertising expenses exceed a limit.

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

(4) A registered party or registered candidate shall not collude with a third party to circumvent, or attempt to circumvent, an expense limit set out in this Part.

(5) For greater certainty, for the purposes of this section, if referendum advertising is transmitted during a referendum advertising period, the expense incurred for that advertising is considered to be a referendum advertising expense under this Part, regardless of when it was incurred.

(6) The chief financial officer of a registered third party shall prepare a referendum advertising expense limit report for the purposes of a return required to be filed under section 44.9499991.

(7) Subject to this Part, a registered third party that operates a referendum advertising account may transfer amounts from its account to the referendum advertising accounts of other registered third parties.

**Restrictions on referendum advertising contributions and expenses**

**44.94995(1)** Subject to subsections (3) and (4), no referendum advertising contribution shall be made by a person, corporation, trade union or employee organization to a third party or used to incur referendum advertising expenses unless

- (a) the third party to whom the referendum advertising contribution is made is registered under section 9.1, or



(b) the third party is not required to be registered under section 9.1.

(2) No third party required to be registered under section 9.1 and no person acting for a third party required to be registered under that section shall accept referendum advertising contributions or incur referendum advertising expenses unless the third party is so registered.

(3) The following shall not make a referendum advertising contribution:

- (a) a person ordinarily resident outside Alberta;
- (b) a prohibited corporation;
- (c) a trade union or employee organization that is not an Alberta trade union or Alberta employee organization;
- (d) a registered charity;
- (e) a group of which any member of the group is ineligible under clause (a), (b) or (c).

(4) A third party shall not incur referendum advertising expenses in a total amount of \$1000 or more if the third party is not eligible to be registered under section 9.1.

(5) No third party shall, directly or indirectly, accept a referendum advertising contribution if the third party knows or ought to know that the contribution is made by a person, organization or group referred to in subsection (3).

(6) If the chief financial officer of a third party learns that a referendum advertising contribution was accepted in contravention of this section, the chief financial officer shall, within 30 days after learning of the contravention, advise the Chief Electoral Officer in writing of the fact and circumstances and return the contribution in accordance with the directions of the Chief Electoral Officer.

**Payments made by third party**

**44.94996** Any money paid by a third party from its own funds for referendum advertising is a referendum advertising contribution of the third party for the purposes of this Part.





**Deposit of referendum advertising contributions**

**44.94997(1)** Referendum advertising contributions for referendum advertising accepted by or on behalf of a registered third party shall be paid into the referendum advertising account.

**(2)** When any referendum advertising contribution, other than money, accepted by or on behalf of a registered third party is converted at any time into money, that amount shall be paid into the referendum advertising account.

**Additional rules for groups**

**44.94998** The following rules apply where a group wishes to make a referendum advertising contribution to a third party or wishes to use funds collected to pay for referendum advertising expenses:

- (a) a referendum advertising contribution from funds collected from a group's members may be attributed to its members only if
  - (i) the amounts paid by its members were made on a voluntary basis,
  - (ii) it was made explicit whether the amounts being collected were for referendum advertising, and
  - (iii) the names of the members who made the payments, and the amounts they each paid, are recorded by the group and, if applicable, provided to the third party;
- (b) a group other than a trade union or employee organization may make referendum advertising contributions only from funds collected from its members in accordance with clause (a);
- (c) referendum advertising contributions by a trade union or employee organization from funds collected from its members but not in accordance with clause (a) are deemed to be referendum advertising contributions of the trade union or employee organization and cannot be attributed to its members;
- (d) amounts making up referendum advertising contributions that are attributed to members under clause (a) are



referendum advertising contributions of those members for the purposes of this Part.

**Valuing contributions other than money**

**44.94999(1)** The value of referendum advertising contributions, other than money, provided to a third party is the market value of the referendum advertising contributions at that time.

(2) If any real property, goods or services or the use of real property, goods or services is provided to a third party for a price that is less than the market value at that time, the amount by which the value exceeds the price is a referendum advertising contribution for the purposes of this Part.

**Fund-raising functions**

**44.94999(1)** In this section, “fund-raising function” includes any social function held for the purpose of raising funds for a third party required to be registered under section 9.1 by whom or on whose behalf the function is held.

(2) The gross income from any fund-raising function must be recorded by the chief financial officer of the third party that held the function or on whose behalf the function was held.

(3) If a fund-raising function is held by the sale of tickets by or on behalf of a third party, the amount of the referendum advertising contribution is to be determined under clause (a) or under clause (b), at the option of the third party:

- (a) if the individual charge
  - (i) is \$50 or less, it is not considered to be a referendum advertising contribution unless the person who pays the charge specifically requests that it be so considered, in which case 1/2 of the amount is allowed for expenses and 1/2 is considered to be a referendum advertising contribution,
  - (ii) is more than \$50 but not more than \$100, \$25 is allowed for expenses and the balance is considered to be a referendum advertising contribution, and



- (iii) is more than \$100, 25% of the amount is allowed for expenses and the balance is considered to be a referendum advertising contribution;
  - (b) the amount of the referendum advertising contribution is the difference between the price of the ticket and the market value of what the ticket entitles the bearer to obtain.
- (4) The price paid by a person at a fund-raising function in excess of the market value at that time for goods or services received is considered to be a referendum advertising contribution to the third party.
- (5) This section does not apply to a fund-raising function for purposes unrelated to referendum advertising.

**Advertising contributions less than \$50**

**44.949992(1)** When, at a meeting held on behalf of or in relation to the affairs of a third party, money is given in response to a general collection of money solicited from the persons in attendance at the meeting, individual amounts given of \$50 or less will not be considered to be referendum advertising contributions, but the chief financial officer of the third party must record the aggregate amount received.

(2) Subsection (1) does not apply to funds raised for or on behalf of a third party for purposes unrelated to referendum advertising.

**Loans**

**44.949993(1)** A third party

- (a) may borrow money only from a financial institution other than a treasury branch, and
- (b) shall record all loans and their terms and shall report accordingly to the Chief Electoral Officer.

(2) Any payment in respect of a loan to which subsection (1) applies is considered a referendum advertising contribution by the person, corporation or group that made the payment unless that person, corporation or group is reimbursed by the borrower prior to the filing by the borrower of the applicable referendum advertising report or return next required to be filed pursuant to section 44.9499991.



(3) This section does not apply to the borrowing of money by a third party for purposes unrelated to referendum advertising.

**Anonymous contributions and unauthorized contributions**

**44.949994(1)** Any anonymous referendum advertising contribution in excess of \$50 and any referendum advertising contribution or portion of a contribution made in contravention of this Part accepted by a registered third party must not be used or expended, and the registered third party

- (a) shall return the referendum advertising contribution or the portion, as the case may be, to the contributor if the contributor's identity can be established, or
- (b) if the contributor's identity cannot be established, shall pay an amount equivalent to the referendum advertising contribution to the Chief Electoral Officer.

(2) Any amounts received by the Chief Electoral Officer under subsection (1)(b) must be paid into the General Revenue Fund.

**Contributions not belonging to contributor**

**44.949995(1)** No person, corporation, group, trade union or employee organization shall contribute to any third party that is registered or is required to be registered under section 9.1 funds not actually belonging to that person, corporation, group, trade union or employee organization, or any funds that have been given or furnished to the person, corporation, group, trade union or employee organization by any group or by a corporation, trade union or employee organization for the purpose of making a referendum advertising contribution of those funds to the third party that is registered or is required to be registered under section 9.1.

(2) No third party that is registered or is required to be registered under section 9.1 and no person on its behalf shall solicit or accept any referendum advertising contribution if the third party or person knows or ought to know that the contribution is contrary to subsection (1).

(3) If the chief financial officer learns that a referendum advertising contribution received by or on behalf of the third party that is registered or is required to be registered for whom the chief





financial officer acts was made contrary to subsection (1), the chief financial officer shall, within 30 days after learning of it, advise the Chief Electoral Officer in writing of the fact and circumstances and return the referendum advertising contribution in accordance with the directions of the Chief Electoral Officer.

#### **Receipts**

**44.949996** A third party shall issue receipts in the form and manner approved by the Chief Electoral Officer for every referendum advertising contribution accepted by the third party under this Part.

#### **Third party referendum advertising expenses**

**44.949997(1)** All referendum advertising expenses must be paid from the third party's referendum advertising account.

(2) Every registered third party shall appoint a chief financial officer.

(3) Every referendum advertising expense that is incurred by or on behalf of a registered third party must be authorized by its chief financial officer.

(4) No referendum advertising contribution shall be accepted by a registered third party otherwise than through the third party's chief financial officer.

(5) The chief financial officer may delegate a function described in subsection (3) or (4) to another person, but the delegation does not limit the chief financial officer's responsibility.

(6) All referendum advertising expenses paid for by a third party from its referendum advertising account must be recorded in its applicable advertising report.

#### **Identification of third parties**

**44.949998(1)** A third party, or a person acting on a third party's behalf, must ensure that the referendum advertising sponsored by the third party complies with the following in accordance with the guidelines of the Chief Electoral Officer:

- (a) the referendum advertising must include the third party's name and contact information and must indicate whether the third party authorizes the referendum advertising;



- (b) subject to clause (c), in the case of referendum advertising that is broadcast or is made through electronic media, the information referred to in clause (a) must be stated at the beginning of the referendum advertising;
- (c) in the case of referendum advertising transmitted to a telephone, whether in the form of a live call or an automated pre-recorded call,
  - (i) the telephone number of the third party must be capable of being displayed on the call display of called parties who subscribe to call display, and must not be blocked from being displayed,
  - (ii) the name of the third party must be stated at the beginning of the referendum advertising,
  - (iii) the referendum advertising must state whether the third party authorizes the referendum advertising, and
  - (iv) the telephone number of the third party at which the third party can be contacted must be stated at the end of the referendum advertising.

**(2)** The Chief Electoral Officer shall establish guidelines respecting the requirements referred to in subsection (1).

**(3)** The guidelines established under subsection (2) must be published on the Chief Electoral Officer's website.

**(4)** If the referendum advertising is not in compliance with this section, the Chief Electoral Officer may cause it to be removed or discontinued, and in the case of the referendum advertising displayed on a sign, poster or other similar format, neither the Chief Electoral Officer nor any person acting under the Chief Electoral Officer's instructions is liable for trespass or damage resulting from or occasioned by the removal.

**Disclosure of referendum advertising contributions**

**44.949999(1)** In addition to the return referred to in section 44.9499991, every registered third party who engages in referendum advertising shall file with the Chief Electoral Officer, in the form and manner and within the time determined by the



Chief Electoral Officer, weekly reports about referendum advertising contributions received during the referendum advertising period, setting out

- (a) the total amount of all referendum advertising contributions received during each week of the referendum advertising period that did not exceed \$250 in the aggregate from any single contributor, and
- (b) for each contributor who made referendum advertising contributions during that week totalling more than \$250, the total amount contributed, together with the contributor's name and address and the amount and date of each referendum advertising contribution.

(2) The reports under subsection (1) for the weeks following the first week must also include the total amounts contributed by a contributor when the referendum advertising contributions of that contributor exceeded \$250 in the aggregate from the beginning of the referendum advertising period to the end of the particular week for which the report is being prepared, together with the contributor's name and address.

**Third party advertising return**

**44.949991(1)** Within 6 months after polling day in relation to a referendum under the *Referendum Act*, the chief financial officer of a third party who is registered under section 9.1(2)(a) shall file with the Chief Electoral Officer a third party referendum advertising return, which must include

- (a) a financial statement,
- (b) a list of all referendum advertising contributions received during the referendum advertising period,
- (c) a referendum advertising expense limit report referred to in section 44.94994(6),
- (d) the time and place of broadcast or publication of the referendum advertisements to which the referendum advertising expenses relate, and
- (e) any supporting information and documents relating to the referendum advertising return.



(2) The chief financial officer of a registered third party that accepts referendum advertising contributions or incurs referendum advertising expenses outside of the return period in subsection (1) shall file a report with the Chief Electoral Officer on or before March 31 of each year for the preceding calendar year.

(3) If a registered third party has not incurred referendum advertising expenses, that fact shall be indicated in its referendum advertising return.

(4) For the purposes of subsection (1)(b), the list of referendum advertising contributions received shall set out, for each contributor who made referendum advertising contributions totalling more than \$250, the contributor's name and address and the amount and date of each referendum advertising contribution.

(5) A chief financial officer shall, at the request of the Chief Electoral Officer, provide the original of any bill, voucher or receipt for a referendum advertising expense of more than \$50.

(6) The Chief Electoral Officer may issue guidelines relating to the preparation and contents of the referendum advertising return referred to in this section and shall publish any guidelines on the Chief Electoral Officer's website.

#### **Audited financial statements**

**44.9499992(1)** The chief financial officer of a third party whose referendum advertising expenses are \$350 000 or more shall file an audited financial statement with the Chief Electoral Officer within 6 months after polling day.

(2) The Chief Electoral Officer may determine what information is to be provided in the audited financial statement required under subsection (1).

#### **Disposition of referendum advertising account funds**

**44.9499993(1)** If a registered third party does not expend all funds for referendum advertising during the referendum advertising period for a referendum under the *Referendum Act*, the registered third party shall, within 6 months after that period, deal with the funds remaining in the referendum advertising account in accordance with subsection (2).





(2) Funds remaining in the referendum advertising account must be dealt with in one or more of the following ways:

- (a) by donating the funds to a registered charity;
- (b) by returning the funds to the third party's contributors if they can be identified;
- (c) if the funds or any portion of the funds cannot be dealt with in accordance with clauses (a) and (b), by paying the funds or that portion of the funds, as the case may be, to the Chief Electoral Officer for deposit into the General Revenue Fund.

(3) A registered third party to which subsection (1) applies must notify the Chief Electoral Officer of its decisions under this section and must apply to the Chief Electoral Officer under section 10 to cancel its registration.

(4) The chief financial officer of a registered third party that has not dealt with the funds remaining in the referendum advertising account must file a referendum advertising return with the Chief Electoral Officer on or before March 31 of each year until such time as the funds have been disposed of completely.

**Late filing fee**

**44.9499994(1)** In this section, "filing deadline" means the day by which a report and return under this Part are required to be filed with the Chief Electoral Officer.

(2) A third party that is required to file a report and return under this Part and fails to file that report or return by the filing deadline must pay a late filing fee of \$500 to the Chief Electoral Officer.

(3) The Chief Electoral Officer shall not cancel the registration of the third party under section 10(4.3) if the report or return is filed no later than 30 days after the filing deadline.

(4) The third party and the chief financial officer of the third party are jointly and severally liable for payment of the fee referred to in subsection (2).

(5) If the late filing fee is not paid within 30 days after the date the fee was payable, the Chief Electoral Officer shall send a notice to



the third party and the chief financial officer referred to in subsection (4) indicating the amount of the late filing fee that is required to be paid.

**(6)** If the third party and the chief financial officer who are sent notices by the Chief Electoral Officer under subsection (5) fail to pay the late filing fee set out in the notice, the Chief Electoral Officer may file a copy of the notice with the clerk of the Court of Queen’s Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

**(8) Section 44.95(a)(v) is amended**

- (a) by striking out “Part 6.1 and” and substituting “Part 6.1,”;**
- (b) by striking out “Part 6.11” and substituting “Part 6.11 and in relation to referendum advertising under Part 6.12”.**

(8) Section 44.95(a)(v) presently reads:

*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*

*(v) registered third parties in relation to election advertising or political advertising under Part 6.1 and in relation to senatorial selection advertising under Part 6.11,*





