

2021 Bill 52

Second Session, 30th Legislature, 70 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 52

RECALL ACT

THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 52

BILL 52

2021

RECALL ACT

(Assented to , 2021)

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

Interpretation

1(1) In this Act,

- (a) “applicant”, in respect of an application, means the elector who submits the application in accordance with section 2;
- (b) “application”, in respect of a recall petition, means an application submitted to the Chief Electoral Officer in accordance with section 2;
- (c) “authorized participant”, in respect of a recall petition or a recall vote, means
 - (i) the applicant for the recall petition,
 - (ii) the member whose electoral division is the subject of the recall petition, or
 - (iii) any other prescribed person or entity;
- (d) “canvass”, in respect of a recall petition, means to solicit signatures for the recall petition in accordance with section 5 and the regulations;
- (e) “canvassing period”, in respect of a recall petition, means the period that begins on the day that the Chief Electoral

Officer issues the recall petition in accordance with section 3(2)(b) and ends on

- (i) the day that the recall petition is submitted to the Chief Electoral Officer in accordance with section 7, or
 - (ii) if the recall petition is not submitted to the Chief Electoral Officer in accordance with section 7 or the day on which the 60-day period under that section expires;
- (f) “Chief Electoral Officer” means the Chief Electoral Officer appointed under section 2 of the *Election Act*;
- (g) “chief financial officer” means an individual so identified
- (i) by an applicant pursuant to sections 2(3)(b) and 12(2), in respect of the applicant,
 - (ii) by an authorized participant other than an applicant, pursuant to section 12(2), in respect of the authorized participant, or
 - (iii) by a third party pursuant to section 23(3)(d), in respect of the third party;
- (h) “Court” means the Court of Queen’s Bench;
- (i) “Election Commissioner” means the Election Commissioner as defined in the *Election Act*;
- (j) “elector” means an individual who
- (i) is a Canadian citizen,
 - (ii) is 18 years of age or older, and
 - (iii) meets the applicable requirements of this Act and the regulations with respect to ordinary residence in the electoral division named in a recall petition;
- (k) “general election” means an election of members of the Legislative Assembly conducted under the *Election Act* where election writs are issued in all electoral divisions;
- (l) “member” means a member of the Legislative Assembly;

- (m) “notice of recall petition” means a notice of recall petition referred to in section 2(2);
- (n) “organization” includes, unless otherwise provided by regulation, an association, partnership, limited partnership or other unincorporated organization;
- (o) “person” includes a corporation;
- (p) “petitioner” means an eligible individual, within the meaning of section 4, who has signed a recall petition in accordance with section 6;
- (q) “recall petition” means a recall petition issued by the Chief Electoral Officer in accordance with section 3(2)(b);
- (r) “recall vote” means a recall vote referred to in Part 2;
- (s) “registered third party” means a third party registered in accordance with section 23;
- (t) “third party” means an individual, corporation or group, but does not include
 - (i) the applicant,
 - (ii) the member whose electoral division is the subject of the recall petition, or
 - (iii) any other prescribed individual, corporation or group.

(2) Unless otherwise provided in this Act or the regulations, or unless the context otherwise requires, words and expressions used in this Act or the regulations have, as the case may be, the same meaning as provided in the *Election Act*, the *Election Finances and Contributions Disclosure Act* or the *Legislative Assembly Act*.

(3) For the purposes of this Act, a document that is required to be filed with or submitted to the Chief Electoral Officer is filed or submitted when it is actually received by the Chief Electoral Officer.

Part 1 Recall Petition

Division 1 Application for Issuance of Recall Petition

Application

2(1) Subject to subsections (4) and (5), an individual who has been an elector in an electoral division for at least 3 months immediately before the date on which the application is submitted may apply for the issuance of a recall petition in respect of that electoral division, by submitting an application to the Chief Electoral Officer in accordance with this section.

(2) The application must include a notice of recall petition in a form acceptable to the Chief Electoral Officer, including

- (a) the name of the member who is the subject of the application,
- (b) the name of the member's electoral division,
- (c) a statement, not exceeding 200 words, setting out why, in the opinion of the applicant, the recall of the member is warranted,
- (d) the name of the applicant, and
- (e) a statement confirming that the Chief Electoral Officer may direct any inquiries about the recall petition to the applicant and indicating the contact information to be used for this purpose.

(3) The application must be accompanied by

- (a) a statement in a form acceptable to the Chief Electoral Officer signed by the applicant that
 - (i) provides
 - (A) the residential address, including the postal code, of the applicant's ordinary residence,

- (B) the applicant's mailing address, including the postal code, if the mailing address is different from the residential address, and
- (C) the applicant's contact information and email address,

and

(ii) confirms that the applicant

- (A) has been an elector in the electoral division that is the subject of the application for at least 3 months immediately before the date on which the application is submitted, and
- (B) is not disqualified under subsection (6) from making the application,

(b) a signed statement in a form acceptable to the Chief Electoral Officer that identifies the signatory as the chief financial officer in respect of the recall petition and that

(i) provides

- (A) the residential address, including the postal code, of the chief financial officer's ordinary residence,
- (B) the chief financial officer's mailing address, including the postal code, if the mailing address is different from the residential address, and
- (C) the chief financial officer's contact information and email address,

and

(ii) confirms

- (A) that the signatory consents to undertake the role and discharge the duties of a chief financial officer under this Act, and
- (B) the contact information that the signatory consents to as regards its use and publication for the purposes of sections 11(4) and 16(4), as

applicable, and to which notices under this Act may be delivered to the chief financial officer for the purposes of section 44,

- (c) the prescribed application fee, and
- (d) any other information prescribed.

(4) An applicant shall, on the request of the Chief Electoral Officer, produce proof of his or her identity and eligibility as an elector consisting of

- (a) one piece of identification issued by a Canadian government, whether federal, provincial or local, or an agency of that government, that contains a photograph of the elector and his or her name and current address, or
- (b) 2 pieces of identification authorized by the Chief Electoral Officer for the purposes of this section, each of which establishes the applicant's name and at least one of which establishes the elector's current address.

(5) An applicant may not submit an application

- (a) within the 18-month period immediately following the day on which the election of the member who is named in the application was announced pursuant to section 138(2) of the *Election Act*,
- (b) in the case of
 - (i) an election held in accordance with section 38.1(2) of the *Election Act*, within the 6-month period immediately preceding the date on which a 3-month period referred to in that section begins, or
 - (ii) an election other than an election held in accordance with section 38.1(2) of the *Election Act*, within the period commencing with the issue of the writs for a general election, or for a by-election in respect of a member who is named in an application, and ending at the end of polling day for that election or by-election,
- (c) if, during the term of office to which the application relates, a recall petition has already been published by the

Chief Electoral Officer in respect of the member named in the notice of recall petition, or

- (d) if a recall petition has been issued in respect of the applicant's electoral division and
 - (i) the Chief Electoral Officer has not yet published the results referred to in section 9(b) in respect of the recall petition, or
 - (ii) the period within which the recall petition shall be submitted to the Chief Electoral Officer under section 7(1) has not yet expired.

(6) The following are disqualified from submitting an application:

- (a) a sitting member of the same Legislature as the member named in the recall petition;
- (b) the Chief Electoral Officer, an election officer or an individual who is otherwise a member of the Chief Electoral Officer's office staff;
- (c) an individual who is prohibited from being a chief financial officer under section 29(4) of the *Election Finances and Contributions Disclosure Act*;
- (d) an individual who, at any time within the previous 8 years, has been convicted of an offence under this Act, the *Election Act* or the *Election Finances and Contributions Disclosure Act*.

Issuance of recall petition

3(1) If the Chief Electoral Officer is not satisfied that the requirements of section 2 have been met, the Chief Electoral Officer shall reject the application and provide written notice to the applicant of the rejection and the reasons for the rejection.

(2) If the Chief Electoral Officer is satisfied that the requirements of section 2 have been met, the Chief Electoral Officer shall, within 7 days of the date of that determination,

- (a) provide written notice that the application has been approved for issuance to
 - (i) the applicant,

- (ii) the member named in the application,
 - (iii) if applicable, the individual who is the leader of the registered party to which the member named in the application belongs, and
 - (iv) the Speaker of the Legislative Assembly,
- (b) issue to the applicant a recall petition in the form determined by the Chief Electoral Officer,
- (c) publish on the Chief Electoral Officer’s website
- (i) the notice of recall petition referred to in section 2(2),
 - (ii) the start and end dates of the canvassing period, and
 - (iii) such other information as the Chief Electoral Officer considers to be appropriate, except the information referred to in section 2(3),
- and
- (d) provide, in writing, to each authorized participant in respect of the recall petition the number of electors whose names appear on the most recent post-polling-day list of electors, referred to in section 19 of the *Election Act*, for the electoral division named in the recall petition.

Division 2 Collection of Signatures

Eligibility to sign recall petition

4(1) To be eligible to sign a recall petition, an individual must, for a period of 3 months immediately before the date of signing, have been an elector in the electoral division named in the recall petition.

(2) An individual shall sign any one recall petition only once.

(3) An individual who signs a recall petition shall indicate the following on the recall petition in legible print and within reasonable proximity to the signature to which it relates:

- (a) the individual’s surname and given names;

- (b) the contact information of the individual on the date on which the individual signed the recall petition, including the residential address of the individual's ordinary residence and the individual's telephone number or email address;
- (c) the date on which the individual signed the recall petition;
- (d) a confirmation in writing that the individual has been an elector in the electoral division that is the subject of the application for at least 3 months immediately before the date on which the individual signs the petition;
- (e) any other information prescribed.

(4) An individual shall sign a recall petition only during the canvassing period.

Eligibility to canvass for signatures

5(1) An individual may canvass on behalf of an authorized participant in respect of a recall petition only if

- (a) the individual has, for a period of 3 months immediately before the date of canvassing, been an elector in the electoral division named in the recall petition, and
- (b) the individual meets the prescribed eligibility requirements, if any.

(2) A person or organization shall not, either directly or indirectly,

- (a) accept any inducement or monetary benefit for canvassing on behalf of an authorized participant, or
- (b) provide any inducement or monetary benefit to an individual who canvasses for the purpose of collecting signatures for a recall petition.

Requirements for recall petition

6(1) In carrying out the verification required under section 8(1), the Chief Electoral Officer shall count a signature on a recall petition only if

- (a) the petitioner's signing of the recall petition is witnessed in accordance with subsection (2),
- (b) the recall petition meets the requirements set out in subsection (3), and
- (c) the recall petition contains the information required under section 4(3).

(2) A petitioner's signing of a recall petition shall be witnessed by a canvasser in the form and manner determined by the Chief Electoral Officer and the witness shall swear an affidavit that states that to the best of the witness's knowledge the witnessed signatures were provided by individuals who are eligible to sign the recall petition.

(3) A recall petition

- (a) must, in the form determined by the Chief Electoral Officer, have in close proximity to each petitioner's signature the notice of recall petition referred to in section 2(2),
- (b) must not be in digital form, and
- (c) must have attached to it each affidavit of a witness to a petitioner's signing of a recall petition referred to in subsection (2).

Division 3 Determination Whether Recall Vote Authorized

Time limit for submitting recall petition

7(1) The Chief Electoral Officer shall not accept a recall petition submitted after the expiry of 60 days after the date on which the Chief Electoral Officer issues the recall petition in accordance with section 3(2)(b).

(2) A recall petition submitted after the canvassing period is invalid and ineligible to be authorized.

(3) A person shall not add a signature to or remove a signature from a recall petition after it has been submitted to the Chief Electoral Officer.

(4) The Chief Electoral Officer shall complete the verification under section 8 within 30 days after the day on which the recall petition is submitted.

Verification

8(1) A recall vote is authorized if the Chief Electoral Officer verifies in accordance with this section that the recall petition has been signed by at least 40% of the total number of electors on the post-polling-day list of electors, referred to in section 19 of the *Election Act*, for the electoral division named in the recall petition.

(2) If a recall petition meets the 40% signature threshold referred to in subsection (1), the Chief Electoral Officer shall apply a random statistical sampling method with a 95% confidence level to the verification of signatures in the recall petition.

Report

9 The Chief Electoral Officer shall, as soon as practicable after completing the verification under section 8(1), report the results by

- (a) providing written notice to
 - (i) the applicant,
 - (ii) the member named in the notice of recall petition,
 - (iii) if applicable, the individual who is the leader of the registered party to which the member named in the notice of recall petition belongs, and
 - (iv) the Speaker of the Legislative Assembly,
- and
- (b) publishing the results on the Chief Electoral Officer's website.

Required return of recall petition and destruction of copies

10(1) Within 2 days of the day on which the Chief Electoral Officer publishes a report in accordance with section 9(b) or an order in accordance with section 47(4)(b), the applicant shall

- (a) return to the Chief Electoral Officer the recall petition issued to the applicant in accordance with section 3(2)(b),
- (b) destroy all additional copies of the signature sheets, including any additional copies made by the applicant, or any person canvassing or acting on behalf of the applicant, and
- (c) submit to the Chief Electoral Officer an affidavit confirming that all signature sheets have been returned and all copies have been destroyed in accordance with this section.

(2) In the case of a judicial review, the proponent shall as soon as practicable following the conclusion of proceedings relating to the judicial review

- (a) destroy all originals and copies of all signature sheets, including any additional copies made by the applicant, or any person canvassing or acting on behalf of the applicant, and
- (b) submit to the Chief Electoral Officer an affidavit confirming that all signature sheets have been returned and all copies have been destroyed in accordance with this section.

Division 4 Recall Petition Finances

Contributions and expenses

11(1) No person or organization shall contribute to an authorized participant in respect of a recall petition except in accordance with this Division and the regulations.

(2) Only an individual who is ordinarily resident in Alberta and who meets the additional requirements prescribed, including additional requirements relating to residence, if any, may make contributions to an authorized participant in respect of a recall petition.

(3) The total amount of all contributions by an individual to an authorized participant shall not exceed the prescribed amount that applies in respect of that authorized participant or class of authorized participants for the purposes of this Division.

(4) An authorized participant shall not accept any contributions or incur any recall expenses in respect of the authorized participant's participation in a recall petition except through the chief financial officer who is identified in accordance with sections 2(3)(b) and 12(2) in respect of the recall petition.

Application of Election Act and Election Finances and Contributions Disclosure Act

12(1) The *Election Act* and *Election Finances and Contributions Disclosure Act* apply with all necessary modifications, subject to this Division and the regulations, with respect to

- (a) a recall petition,
- (b) the authorized participants in respect of a recall petition and their recall advertising in respect of a recall petition,
- (c) the duties of a chief financial officer identified under section 2(3)(b) and this section in respect of a recall petition and recall advertising in respect of a recall petition, and
- (d) any investigation, offences, penalties, administrative penalties and other administrative action in respect of finances and contributions relating to a recall petition.

(2) An authorized participant in respect of a recall petition shall provide the following to the Chief Electoral Officer with respect to the authorized participant's chief financial officer:

- (a) the information referred to in section 2(3)(b);
- (b) the contact information to be used by the Chief Electoral Officer for delivery of notices to the chief financial officer.

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

- (a) the applicant who appoints the chief financial officer;
- (b) the Chief Electoral Officer, an election officer or an individual who is otherwise a member of the staff of the Chief Electoral Officer;

- (c) an individual who is prohibited from being a chief financial officer under section 29(4) of the *Election Finances and Contributions Disclosure Act*;
- (d) an individual who, at any time within the previous 8 years, has been convicted of an offence under this Act, the *Election Act* or the *Election Finances and Contributions Disclosure Act*;
- (e) an individual identified by the regulations as being disqualified.

Expense limits

13 An authorized participant shall not incur recall expenses exceeding the prescribed expense limits that apply in respect of that authorized participant or class of authorized participants for the purposes of this Division.

**Division 5
Recall Petition Regulations**

Regulations — recall petitions

14(1) The Lieutenant Governor in Council may make regulations for the purposes of this Part

- (a) modifying provisions of the *Election Act* and the regulations under that Act to make them applicable in respect of a recall petition or any other matter described in section 12(1)(b) to (d), including specifying or setting out provisions applicable to a recall petition in addition to, or instead of, any provision of that Act and regulations;
- (b) modifying the provisions of the *Election Finances and Contributions Disclosure Act* and the regulations under that Act to make them applicable to a recall petition or any other matter described in section 12(1)(b) to (d), including specifying or setting out provisions applicable to a recall petition in addition to, or instead of, any provision of that Act and regulations.

(2) Without limiting the general powers conferred by this section, the Lieutenant Governor in Council may make regulations for the purposes of this Part

- (a) defining words or expressions, including a word or expression used in this Part;
- (b) respecting the duties and powers of the Chief Electoral Officer concerning an authorized participant, chief financial officer, contribution, expense, report, return or disclosure required with respect to a recall petition;
- (c) prescribing a person or entity to be an authorized participant in respect of a recall petition for the purposes of section 1(1)(c)(iii);
- (d) respecting authorized participants or classes of authorized participants in respect of a recall petition;
- (e) respecting requirements with respect to ordinary residence and the proof of ordinary residence in an electoral division for the purposes of section 1(1)(j)(iii) and sections 2, 4 and 5;
- (f) prescribing an individual, corporation or group for the purposes of section 1(1)(t)(iii);
- (g) prescribing the fee referred to in section 2(3)(c);
- (h) prescribing information for the purposes of section 2(3)(d) or 4(3)(e);
- (i) governing individuals who canvass for signatures, including their duties in respect of canvassing, signature sheets, contributions and
 - (i) the proof of an individual's eligibility to canvass, and
 - (ii) the proof of an individual's status as a canvasser in respect of a recall petition to be presented when canvassing;
- (j) prohibiting or regulating, in respect of a recall petition or of canvassing in respect of a recall petition,
 - (i) contributions that may be made to political parties, persons and groups of persons, and
 - (ii) expenses that may be incurred by political parties, persons and groups of persons;

- (k) respecting information that must be provided with respect to contributions or expenses for individuals who canvass for signatures;
- (l) respecting the duties of an authorized participant or a chief financial officer, including with respect to
 - (i) advertising, within the meaning of sections 134 to 135.4 of the *Election Act*, with respect to a recall petition, and
 - (ii) contributions, expenses and the reports, returns or disclosure required with respect to a recall petition;
- (m) respecting the additional requirements, including additional requirements relating to residence, referred to in section 11(2);
- (n) prescribing the total amount of all contributions by an individual to an authorized participant or class of authorized participants for the purposes of section 11(3);
- (o) respecting individuals who are disqualified for the purposes of section 12(3)(e);
- (p) respecting the recall expense limits that apply in respect of that authorized participant or class of authorized participants for the purposes of section 13;
- (q) generally respecting any other matters and things relating to the holding and conduct of a recall petition and to the regulation of contributions, expenses, reporting, returns and disclosure in relation to a recall petition that the Lieutenant Governor in Council considers appropriate.

Part 2 Recall Vote

Recall vote

15(1) If the results published by the Chief Electoral Officer under section 9(b) authorize a recall vote, the Lieutenant Governor in Council shall order that a recall vote be conducted within 6 months of the date on which the successful results are published in the electoral division named in the recall petition, as if the recall vote were a by-election.

(2) The question to be submitted to the electorate in a recall vote is whether the named member should be recalled.

(3) An order under subsection (1) shall specify

- (a) the date on which the recall vote is to be held,
- (b) the electoral division in which the recall vote is to be held, and
- (c) whether the recall vote is to be conducted by mail-in ballot.

(4) The persons eligible to vote in a recall vote are the persons who would be eligible to vote in a by-election under the *Election Act* in the electoral division named in the recall petition, on the day the recall vote is held.

(5) A recall vote may be conducted by mail-in ballot in accordance with the regulations.

Contributions and expenses

16(1) No person or organization shall contribute to an authorized participant in respect of a recall vote except in accordance with this Part and the regulations.

(2) Only an individual who is ordinarily resident in Alberta and who meets the additional requirements prescribed, including additional requirements relating to residence, if any, may make contributions to an authorized participant in respect of a recall vote.

(3) The total amount of all contributions by an individual to an authorized participant shall not exceed the prescribed amount that applies in respect of that authorized participant or class of authorized participants for the purposes of this Part.

(4) An authorized participant shall not accept any contributions or incur any recall expenses in respect of the authorized participant's participation in a recall vote except through the chief financial officer who is identified in accordance with sections 2(3)(b) and 12(2) in respect of the recall petition.

Application of Election Act and Election Finances and Contributions Disclosure Act

17 The *Election Act* and *Election Finances and Contributions Disclosure Act* apply with all necessary modifications, subject to this Part and the regulations, with respect to

- (a) a recall vote,
- (b) the authorized participants in respect of a recall vote and their recall advertising in respect of a recall vote,
- (c) the duties of a chief financial officer identified under section 12(2)(b) or in accordance with the regulations, if any, in respect of a recall vote and recall advertising in respect of a recall vote, and
- (d) any investigation, offences, penalties, administrative penalties and other administrative action in respect of finances and contributions relating to a recall vote.

Expense limits

18 An authorized participant shall not incur recall expenses exceeding the prescribed expense limits that apply in respect of that authorized participant or class of authorized participants for the purposes of this Part.

Results of recall vote

19(1) A recall vote is successful if more than 50% of the electors who voted vote in favour of the recall.

(2) The Chief Electoral Officer shall, after verifying the results of a recall vote, announce the results of the recall vote by

- (a) providing written notice to
 - (i) the applicant,
 - (ii) the member named in the notice of recall petition,
 - (iii) if applicable, the individual who is the leader of the registered party to which the member named in the notice of recall petition belongs, and
 - (iv) the Speaker of the Legislative Assembly,

and

- (b) publishing the results on the Chief Electoral Officer's website.

Effect of successful recall vote

20(1) If the recall vote is successful, then on the publication of the results referred to in section 19(2)(b)

- (a) the individual named as the member in the recall petition is recalled,
- (b) the individual is no longer a member of the Legislative Assembly, and
- (c) for the purpose of section 32(1) of the *Legislative Assembly Act*, the seat to which the individual was elected as a member is vacant.

(2) An individual recalled in accordance with this Part is eligible to be elected in a subsequent election if the individual is eligible for nomination under the *Election Act*.

Regulations — recall vote

21(1) The Lieutenant Governor in Council may make regulations for the purposes of this Part

- (a) modifying provisions of the *Election Act* and the regulations under that Act to make them applicable in respect of a recall vote or any other matter described in section 17(b) to (d), including specifying or setting out provisions applicable to a recall vote in addition to, or instead of, any provision of that Act and regulations;
- (b) modifying provisions of the *Election Finances and Contributions Disclosure Act* and the regulations under that Act to make them applicable in respect of a recall vote or any other matter described in section 17(b) to (d), including specifying or setting out provisions applicable to a recall vote in addition to, or instead of, any provision of that Act and regulations.

(2) Without limiting the general powers conferred by this section, the Lieutenant Governor in Council may make regulations for the purposes of this Part

- (a) defining words or expressions, including a word or expression used in this Part;
- (b) respecting the duties and powers of the Chief Electoral Officer concerning an authorized participant, chief financial officer, contribution, expense, report, return or disclosure required with respect to a recall vote;
- (c) prescribing a person or entity to be an authorized participant in respect of a recall vote for the purposes of section 1(1)(c)(iii);
- (d) respecting authorized participants or classes of authorized participants in respect of a recall vote;
- (e) prohibiting or regulating, in respect of a recall vote,
 - (i) contributions that may be made to political parties, persons and groups of persons, and
 - (ii) expenses that may be incurred by political parties, persons and groups of persons;
- (f) respecting the conduct of a recall vote by mail-in ballot, providing that any provision of the *Election Act* applies to the vote with the modifications set out in the regulations or specifying or setting out provisions applicable to the vote in addition to, or instead of, any provision of the *Election Act*;
- (g) respecting the duties of an authorized participant or a chief financial officer, including with respect to
 - (i) advertising, within the meaning of sections 134 to 135.4 of the *Election Act*, with respect to a recall vote, and
 - (ii) contributions, expenses and the reports, returns or disclosure required with respect to a recall vote;
- (h) respecting the additional requirements, including additional requirements relating to residence, referred to in section 16(2);

- (i) prescribing the total amount of all contributions by an individual to an authorized participant or class of authorized participants for the purposes of section 16(3);
- (j) respecting the expense limits that apply in respect of that authorized participant or class of authorized participants for the purposes of section 18;
- (k) governing any necessary matter relating to the holding and conduct of a recall vote for which no provision is made in this Part;
- (l) generally respecting any other matters and things relating to the holding and conduct of a recall vote that the Lieutenant Governor in Council considers appropriate.

Part 3 Third Party Recall Advertising

Interpretation

22(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;
- (b) “group” means an unincorporated group of individuals or corporations acting in consort for a common purpose and includes a trade union and an employee organization or any combination of individuals, corporations, trade unions or employee organizations;

- (c) “recall advertising” means, subject to subsection (3), the transmission to the public by any means during the recall advertising period of an advertising message that promotes or opposes the recall of the member whose electoral division is the subject of the recall petition, 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 recall petition or a recall vote,
 - (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 an individual, a corporation or a group, on a non-commercial basis on the Internet, of the political views of that individual, 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) “recall advertising account” means the account on record with the Chief Electoral Officer for the purpose of accepting recall advertising contributions for recall advertising and for the payment of recall advertising expenses for recall advertising during the canvassing period or the recall advertising period;
- (e) “recall advertising contribution” means, subject to the regulations,
 - (i) money provided to or for the benefit of a third party, or

- (ii) real property, goods or, subject to subsection (4), 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 recall advertising, whether provided before or after the third party becomes registered in accordance with section 23;

- (f) “recall advertising expense” means an expense incurred in relation to
 - (i) the production of a recall 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 recall advertising message;
- (g) “recall advertising period” means,
 - (i) in the case of a recall petition, the canvassing period, and
 - (ii) in the case of a recall vote, the period beginning on the date when the Lieutenant Governor in Council issues an order authorizing a writ with respect to the recall vote and ending at the end of the polling day established for the purposes of the recall vote.

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

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

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

- (a) volunteer labour provided by an individual, so long as that individual does not receive from the individual’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 an individual 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 an individual who is self-employed if the services are normally charged for by that individual.

(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.

Registration of third parties

23(1) A third party shall apply to the Chief Electoral Officer for registration under this section, in the form and manner determined by the Chief Electoral Officer,

- (a) when it has incurred expenses of \$1000 or plans to incur advertising expenses of at least \$1000 for recall advertising in respect of any one recall petition or recall vote, or
- (b) when it has accepted recall advertising contributions of \$1000 or plans to accept recall advertising contributions of at least \$1000 in respect of any one recall petition or recall vote.

(2) The Chief Electoral Officer shall maintain a register of third parties who engage in recall advertising.

(3) Subject to this section, the Chief Electoral Officer shall register any third party who is eligible to be registered and who files with the Chief Electoral Officer an application for registration setting out

- (a) the name and contact information

- (i) if the third party is an individual, of the individual,
 - (ii) if the third party is a corporation, of the corporation and of the officer who has signing authority for it, and
 - (iii) if the third party is a group, of the group and of the principal officers of the group or, if there are no principal officers, the principal members,
- (b) the address and telephone number of the place or places where records of the third party are maintained and of the place to which communications may be addressed for the purposes of section 44,
 - (c) identification of the recall petition in relation to which the applicant wishes to be registered as a third party,
 - (d) the name and contact information of the chief financial officer responsible for the recall advertising account of the third party, and any other prescribed information with respect to the chief financial officer,
 - (e) the name and address of the financial institution to be used by the third party for its recall advertising account,
 - (f) the names of the signing authorities for the recall advertising account, and
 - (g) any other information required by the Chief Electoral Officer concerning a recall advertising account.
- (4)** If the third party has a governing body, the application must include a copy of the resolution passed by the governing body authorizing the third party to incur recall advertising expenses.
- (5)** The Chief Electoral Officer shall not register a third party if, in the Chief Electoral Officer's opinion,
- (a) the name or the abbreviation of the name of the applicant so nearly resembles the name or abbreviation of the name or a nickname of another registered third party, or of a candidate, political party or political organization that is active anywhere in Alberta, that confusion is likely, or

- (b) the proposed name was the name of a registered party or registered third party whose registration was cancelled or whose name was changed since the last general election.

(6) The following are not eligible to be registered:

- (a) a corporation that does not carry on business in Alberta;
- (b) a person who is not ordinarily resident in Alberta;
- (c) a trade union or employee organization that is not an Alberta trade union or Alberta employee organization;
- (d) a group where any member of the group is ineligible under clause (a), (b) or (c);
- (e) a registered charity;
- (f) a prohibited corporation.

(7) The Chief Electoral Officer shall, as soon as practicable after receiving an application,

- (a) determine whether the requirements set out in this section are met,
- (b) notify the persons who signed the application whether the third party is accepted for registration, and
- (c) if the application is refused, give reasons for the refusal.

(8) When there is any change in the information required to be provided under this section, the registered third party shall notify the Chief Electoral Officer in writing within 30 days after the alteration and, subject to section 10 of the *Election Finances and Contributions Disclosure Act*, on receipt of the notice the Chief Electoral Officer shall vary the register accordingly.

(9) A notice under subsection (8) may be sent by fax or email.

(10) For greater certainty, except as provided in this Part or the regulations, the *Election Act* and the *Election Finances and Contributions Disclosure Act* apply with all necessary modifications in respect of third party recall advertising and any investigation, offences or penalties in respect of third party recall advertising.

Recall advertising spending limit

24(1) A registered third party shall not incur recall advertising expenses exceeding the prescribed amount that applies to the recall advertising period.

(2) A third party shall not circumvent, or attempt to circumvent, a limit set out under 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 recall 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 an authorized participant or third party.

(4) An authorized participant or third party 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 recall advertising is transmitted during a recall advertising period, the expense incurred for that advertising is considered to be a recall advertising expense under this Part, regardless of when it was incurred.

(6) The chief financial officer of a registered third party shall prepare a recall advertising expense limit report for the purposes of a third party recall advertising return required to be filed under section 39.

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

Restrictions on recall advertising contributions and expenses

25(1) Subject to subsection (3) and the regulations, no recall advertising contribution shall be made to a third party or used to incur recall advertising expenses unless

- (a) the third party to whom the recall advertising contribution is made is registered under section 23, or
- (b) the third party is not required to be registered under section 23.

(2) No third party required to be registered under section 23 and no person acting for a third party required to be registered under that section shall accept recall advertising contributions or incur recall advertising expenses unless the third party is so registered.

(3) A third party shall not incur recall advertising expenses in a total amount of \$1000 or more in respect of any one recall petition if the third party is not eligible to be registered.

(4) No third party shall, directly or indirectly, accept a recall advertising contribution if the third party knows or ought to know that the contribution is made by a person, organization or group prescribed for the purpose of prohibiting contributions.

(5) If the chief financial officer of a third party learns that a recall 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

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

Deposit of recall advertising contributions

27(1) Recall advertising contributions for recall advertising accepted by or on behalf of a registered third party shall be paid into the recall advertising account.

(2) When any recall 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 recall advertising account.

Additional rules for groups

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

- (a) a recall 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 recall 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 recall advertising contributions only from funds collected from its members in accordance with clause (a);
- (c) recall 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 recall advertising contributions of the trade union or employee organization and cannot be attributed to its members;
- (d) amounts making up recall advertising contributions that are attributed to members under clause (a) are recall advertising contributions of those members for the purposes of this Part.

Valuing contributions other than money

29(1) The value of recall advertising contributions, other than money, provided to a third party is the market value of the recall 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 recall advertising contribution for the purposes of this Part.

Fund-raising functions

30(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 23 by whom or on whose behalf the function is held.

(2) The gross income from any fund-raising function shall 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 recall 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 recall advertising contribution unless the person who pays the charge specifically requests that it be so considered, in which case 50% of the amount is allowed for expenses and 50% is considered to be a recall 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 recall advertising contribution, and

(iii) is more than \$100, 25% of the amount is allowed for expenses and the balance is considered to be a recall advertising contribution;

(b) the amount of the recall 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 recall advertising contribution to the third party.

(5) This section does not apply to a fund-raising function for purposes unrelated to recall advertising.

Recall advertising contributions less than \$50

31(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 recall advertising contributions, but the chief financial officer of the third party shall 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 recall advertising.

Loans

32(1) A third party

- (a) shall only borrow money 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 recall advertising contribution by the individual, corporation or group that made the payment unless that individual, corporation or group is reimbursed by the borrower prior to the filing by the borrower of the applicable recall advertising report or return next required to be filed pursuant to section 39.

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

Anonymous contributions and unauthorized contributions

33(1) Any anonymous contribution in excess of \$50 and any contribution or portion of a contribution made in contravention of this Part accepted by a registered third party shall not be used or expended, and the registered third party

- (a) shall return the 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 recall advertising contribution to the Chief Electoral Officer.

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

Contributions not belonging to contributor

34(1) No person, organization or group prescribed for the purposes of section 25(4) shall contribute to any third party that is registered or is required to be registered under section 23 funds not actually belonging to that person, organization or group, or any funds that have been given or furnished by a prescribed person, organization or group for the purpose of making a recall advertising contribution of those funds to the third party that is registered or is required to be registered under section 23.

(2) No third party that is registered or is required to be registered under section 23 and no person on its behalf shall solicit or accept any recall 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 recall 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 recall advertising contribution in accordance with the directions of the Chief Electoral Officer.

Receipts

35 The chief financial officer for a third party shall issue receipts in the form and manner approved by the Chief Electoral Officer for every recall advertising contribution accepted by the third party under this Part.

Third party recall advertising expenses

36(1) All recall advertising expenses shall be paid from the third party's recall advertising account.

- (2) Every registered third party shall appoint a chief financial officer.
- (3) Every recall advertising expense that is incurred by or on behalf of a registered third party shall be authorized by its chief financial officer.
- (4) No recall 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 recall advertising expenses paid for by a third party from its recall advertising account shall be recorded in its applicable recall advertising report.

Identification of third parties

- 37(1)** A third party, or a person acting on a third party's behalf, shall ensure that the recall advertising sponsored by the third party complies with the following in accordance with the guidelines of the Chief Electoral Officer:
- (a) the recall advertising must include the third party's name and contact information and must indicate whether the third party authorizes the recall advertising;
 - (b) subject to clause (c), in the case of recall 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 recall advertising;
 - (c) in the case of recall 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 recall advertising,

- (iii) the recall advertising must state whether the third party authorizes the recall 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 recall advertising.

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

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

(4) If the recall 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 recall 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 recall advertising contributions

38(1) In addition to the return referred to in section 39, every registered third party who engages in recall 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 recall advertising contributions received during the recall advertising period, setting out

- (a) the total amount of all recall advertising contributions received during each week of the recall advertising period that did not exceed \$250 in the aggregate from any single contributor, and
- (b) for each contributor who made recall 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 recall 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 recall advertising contributions of that contributor exceeded \$250 in the aggregate from the beginning of the relevant period referred to in section 39(1) to the end of the

particular week for which the report is being prepared, together with the contributor's name and address.

Third party recall advertising return

39(1) The chief financial officer of a third party who is registered under section 23 shall file a third party recall advertising return with the Chief Electoral Officer

- (a) in the case of a recall petition, within 4 months after the date on which the canvassing period ends, and
- (b) in the case of a recall vote, within 4 months after the date of the polling day established for the purposes of the recall vote.

(2) A third party recall advertising return must include

- (a) a financial statement,
- (b) a list of all recall advertising contributions received during the recall advertising period,
- (c) a recall advertising expense limit report referred to in section 24(6),
- (d) the time and place of broadcast or publication of the recall advertisements to which the recall advertising expenses relate, and
- (e) any supporting information relating to the recall advertising return submitted by the third party or requested by the Chief Electoral Officer.

(3) The chief financial officer of a registered third party that accepts recall advertising contributions or incurs recall 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.

(4) If a registered third party has not incurred recall advertising expenses, that fact must be indicated in its recall advertising return.

(5) For the purposes of subsection (2)(b), the list of recall advertising contributions received must set out, for each contributor who made recall advertising contributions totalling more than

\$250, the contributor's name and address and the amount and date of each recall advertising contribution.

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

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

Audited financial statements

40(1) The chief financial officer of a third party whose recall advertising expenses exceed the prescribed amount shall file an audited financial statement with the Chief Electoral Officer within 6 months after

- (a) in the case of a recall petition, the end of the canvassing period, and
- (b) in the case of a recall vote, the end of the polling day established for the purposes of the recall vote.

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

Disposition of surplus funds

41(1) If a registered third party does not expend all funds for recall advertising during the recall advertising period, the registered third party shall, within 6 months after that period, deal with the funds remaining in the recall advertising account in accordance with subsection (2).

(2) Funds remaining in the recall advertising account after the polling day established for the purposes of a recall vote, or following the earlier withdrawal, conclusion or termination of a recall petition or a recall vote shall, subject to the regulations, 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 shall notify the Chief Electoral Officer of its decisions under this section and shall apply to the Chief Electoral Officer in accordance with the regulations to cancel its registration.

(4) The chief financial officer of a registered third party that has not dealt with the funds remaining in the recall advertising account shall file a recall 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 to the satisfaction of the Chief Electoral Officer.

(5) The Chief Electoral Officer shall pay any amounts received under subsection (2)(c) into the General Revenue Fund.

Late filing fee

42(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 shall 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 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, 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.

Regulations — third party recall advertising

43(1) Except as provided in this Part or the regulations, the *Election Act* and the *Election Finances and Contributions Disclosure Act* apply with all necessary modifications in respect of third party recall advertising.

(2) The Lieutenant Governor in Council may make regulations for the purposes of this Part

- (a) modifying provisions of the *Election Act* and the regulations under that Act to make them applicable in respect of third party recall advertising, including specifying or setting out provisions applicable in the context of a recall petition or a recall vote in addition to, or instead of, any provision of that Act and regulations;
- (b) modifying the provisions of the *Election Finances and Contributions Disclosure Act* and the regulations under that Act to make them applicable to third party recall advertising, including specifying or setting out provisions applicable in the context of a recall petition or a recall vote in addition to, or instead of, any provision of that Act and regulations.

(3) Without limiting the general powers conferred by this section, the Lieutenant Governor in Council may make regulations for the purposes of this Act

- (a) defining or further defining words or expressions, including a word or expression used in this Part;
- (b) respecting the duties and powers of a third party, a chief financial officer appointed for the purposes of this Part or any other person or organization with respect to third party recall advertising;

- (c) respecting the duties and powers of the Chief Electoral Officer concerning a third party, a chief financial officer appointed for the purposes of this Part or a contribution, expense or report required under this Part;
- (d) prescribing information for the purposes of section 23(3)(d) and (g);
- (e) prescribing a recall advertising expense limit or classes of recall advertising expense limits for the purpose of section 24(1);
- (f) prohibiting a person, organization or group, or a class of persons, organizations or groups, from making contributions for the purposes of section 25(4);
- (g) prohibiting or regulating, for the purposes of recall advertising,
 - (i) contributions that may be made to political parties, persons and groups of persons, and
 - (ii) expenses that may be incurred by political parties, persons and groups of persons;
- (h) respecting a person, organization or group, or a class of persons, organizations or groups, for the purposes of section 34(1);
- (i) respecting the appointment of a chief financial officer for a third party under section 36(2);
- (j) prescribing the amount referred to in section 40(1);
- (k) respecting the disposition of surplus funds for the purposes of section 41(2);
- (l) generally respecting any other matters and things relating to third party recall advertising that the Lieutenant Governor in Council considers appropriate.

Part 4 General

Giving notice

44 A notice or document that is required or authorized under this Act to be given to a person or organization is given if it is delivered in accordance with the contact information, including fax or email, provided for this purpose under this Act or the regulations.

Access to and use of information

45(1) A record that is required or authorized under this Act to be filed with or submitted to the Chief Electoral Officer shall, subject to this section, be available for public inspection in the office of the Chief Electoral Officer during its regular office hours for one year from the time the record is filed or submitted.

(2) Unless the Chief Electoral Officer permits earlier inspection,

- (a) a notice of recall petition referred to in section 2(2) is not available for public inspection until after the Chief Electoral Officer has published the notice under section 3(2)(c), and
- (b) a recall petition that has been submitted to the Chief Electoral Officer for verification is not available for public inspection until the Chief Electoral Officer has reported the results under section 9.

(3) Except as expressly provided in this Act, neither a recall petition nor a copy of a recall petition shall be made available for public inspection, published on the Chief Electoral Officer's website or otherwise accessed, used or disclosed, except as the Chief Electoral Officer considers necessary for the purposes of this Act.

(4) The residence information or other personal information of an individual

- (a) shall not be made available for public inspection, published on the Chief Electoral Officer's website or otherwise accessed, used or disclosed, except as the Chief Electoral Officer considers necessary for the purposes of this Act, and

(b) may be removed from or obscured by the Chief Electoral Officer in any record that is made available for public inspection, published or otherwise accessed, used or disclosed by the Chief Electoral Officer.

(5) If a record is available for public inspection in the office of the Chief Electoral Officer, subject to this section, a member of the public may obtain a copy of the record on payment for the preparation of the copies at the rates that the Chief Electoral Officer determines.

(6) The Chief Electoral Officer or a member of the staff of the Chief Electoral Officer may require an individual who wishes to inspect or obtain a copy of a record referred to in subsection (4)

(a) to satisfy the official that any purpose for which personal information is to be used is permitted by that subsection, and

(b) to provide a signed statement that the individual, and any person or organization on whose behalf the individual is inspecting or obtaining the record, will not use personal information included in the record except for a purpose permitted under this Act.

Information protection and confidentiality

46(1) Except as provided under this Act, the Chief Electoral Officer, the Election Commissioner, any former Chief Electoral Officer, any former Election Commissioner, every individual who is or was employed or engaged by the Office of the Chief Electoral Officer to carry out the duties of the Chief Electoral Officer and every individual who is or was employed or engaged by the Office of the Election Commissioner to carry out the duties of the Election Commissioner shall maintain the confidentiality of all information, complaints and allegations that come to their knowledge.

(2) Information, complaints and allegations to which subsection (1) applies may be disclosed

(a) by the Chief Electoral Officer to the Election Commissioner for the purpose of carrying out the Election Commissioner's powers, duties and functions under this Act,

- (b) by the Election Commissioner to the Chief Electoral Officer for the purposes of carrying out the Chief Electoral Officer's powers, duties and functions under this Act,
- (c) by the Chief Electoral Officer to a delegate referred to in section 50 for the purpose of carrying out delegated powers, duties and functions under this Act,
- (d) to the person or organization whose conduct is the subject of proceedings under this Act,
- (e) by an individual conducting an investigation to the extent necessary to enable that individual to obtain information from a person or organization,
- (f) in the course of a judicial review or other proceeding relating to this Act,
- (g) where adduced as evidence in an inquiry,
- (h) where the Election Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Solicitor General or a law enforcement agency of an alleged offence under this Act or any other enactment of Alberta or an Act or regulation of Canada, or
- (i) in accordance with the regulations.

(3) Findings and decisions, and any additional information that the Election Commissioner considers to be appropriate, shall be published on the Chief Electoral Officer's website in accordance with the regulations.

Emergencies and extraordinary circumstances

47(1) The Chief Electoral Officer may, by specific or general order, make exceptions to this Act and the regulations in accordance with the purposes of this Act as the Chief Electoral Officer considers to be necessary because of an emergency, a legal proceeding or any other extraordinary circumstances in relation to proceedings under this Act.

(2) Without limiting subsection (1), the Chief Electoral Officer may make orders extending a period or establishing a new date in

place of a date set for the purposes of this Act or the regulations and giving any other direction the Chief Electoral Officer considers appropriate in relation to this Act.

(3) The Chief Electoral Officer shall, subject to the regulations, make an order declaring a recall petition and any related recall vote or process to be terminated if

- (a) the applicant dies or becomes incapacitated,
- (b) the individual named as the member in the recall petition is no longer a member of the Legislative Assembly,
- (c) the applicant submits, in a form acceptable to the Chief Electoral Officer, a notice of withdrawal of the recall petition, or
- (d) between the day that the Chief Electoral Officer issues a recall petition and the polling day established in respect of a recall vote referred to in Part 2 with respect to that petition, a writ of election is issued.

(4) The Chief Electoral Officer shall, as soon as practicable after making an order under this section,

- (a) provide written notice, as applicable, to
 - (i) the applicant,
 - (ii) the member named in the notice of recall petition,
 - (iii) the individual who is the leader of the registered party to which the member named in the notice of recall petition belongs, and
 - (iv) the Speaker of the Legislative Assembly,

and

- (b) publish the order on the Chief Electoral Officer's website.

Guidelines

48(1) The Chief Electoral Officer may issue guidelines respecting all or any part or provision of this Act and the regulations, and shall publish any guidelines issued on the Chief Electoral Officer's website.

(2) An authorized participant or registered third party shall comply with this Act and the regulations in accordance with the guidelines published on the Chief Electoral Officer's website.

Forms

49 The Chief Electoral Officer shall provide or approve forms for the purposes of this Act.

Delegation, etc.

50(1) Except as provided in this section, the Chief Electoral Officer may delegate to a person employed or engaged by the Office of the Chief Electoral Officer any power or duty conferred on the Chief Electoral Officer by or in relation to this Act on any conditions that the Chief Electoral Officer considers appropriate.

(2) The Chief Electoral Officer shall not delegate

- (a) the duty to verify a recall petition in accordance with section 8,
- (b) the duty to report the results of a recall petition under section 9 or of a recall vote under section 19, or
- (c) the determination under section 68, whether to consent to a prosecution.

(3) The Election Commissioner shall not delegate the powers and duties associated with an administrative penalty referred to in section 64 or a compliance agreement under the regulations.

(4) Whether or not there is an appointed Election Commissioner, the Chief Electoral Officer has all the powers, duties and functions of the Election Commissioner for the purposes of this Act, and the Election Commissioner exercises or performs those powers, duties and functions subject to any restrictions, limitations or directions that the Chief Electoral Officer may specify.

Judicial review

51 An application for judicial review of a decision or order of the Chief Electoral Officer or the Election Commissioner under this Act shall be filed with the Court and served on the Chief Electoral Officer or the Election Commissioner, as the case may be, no later than 30 days from the date of the decision or order.

Administration expense

52 The Chief Electoral Officer's and Election Commissioner's costs of administering this Act and the regulations shall be submitted to the Standing Committee on Legislative Offices and defrayed in accordance with section 7 of the *Election Act*.

**Part 5
Enforcement, Offences, Penalties
and Prosecutions**

Audit or investigation by Chief Electoral Officer

53(1) The Chief Electoral Officer may

- (a) conduct audits of the accounts of chief financial officers, and
- (b) examine and make inquiries with regard to any matter that might constitute a contravention of this Act or a regulation under this Act.

(2) For the purposes of subsection (1), the Chief Electoral Officer or a representative of the Chief Electoral Officer may inspect and make copies of the records of a person or organization that

- (a) is or was at any time during the previous 5 years a chief financial officer,
- (b) is or was at any time during the previous 5 years an authorized participant, or
- (c) is or was at any time during the previous 5 years required to file a recall advertising disclosure report.

(3) Section 5(1) to (2.1) of the *Election Finances and Contributions Disclosure Act* apply to an investigation under this section.

(4) An authorized participant, chief financial officer, registered third party or other person or organization shall, within 30 days after receiving a written request from the Chief Electoral Officer or within an extended period that the Chief Electoral Officer may determine, provide any information with respect to the financial affairs of the authorized participant, registered third party or other person or organization that is reasonably required by the Chief

Electoral Officer in the course of the Chief Electoral Officer's duties under this Act.

(5) The Chief Electoral Officer may refuse to conduct an audit or may cease an examination or inquiry if the Chief Electoral Officer is of the opinion that

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

(6) The Chief Electoral Officer shall not make any adverse finding against a person unless that person has had reasonable notice of the substance of the matter under investigation and a reasonable opportunity to present the views of the person.

(7) The Chief Electoral Officer shall within a reasonable time report any act or omission that in the Chief Electoral Officer's opinion likely constitutes an offence under this Act to the Election Commissioner.

(8) Where, in the opinion of the Chief Electoral Officer, it is in the public interest to do so, the Chief Electoral Officer shall publish a summary report on the Chief Electoral Officer's website relating to any matter within the scope of this Act, including a summary referring to and commenting on any particular matter audited or investigated by the Chief Electoral Officer or the Election Commissioner.

Enforcement by Election Commissioner

54(1) The Election Commissioner 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 a contravention of this Act.

(2) For the purpose of conducting an investigation under this Act,

- (a) the Election Commissioner has all the powers and duties referred to in sections 153.09 and 153.091 of the *Election Act* and sections 44.95, 44.96 and 44.97 of the *Election Finances and Contributions Disclosure Act*, and

- (b) other persons or organizations, including persons or organizations under investigation, have the rights and duties referred to in the *Election Act* and the *Election Finances and Contributions Disclosure Act* in respect of an investigation.

(3) For greater certainty, on the request of the Election Commissioner, the Chief Electoral Officer shall disclose to the Election Commissioner any document or information that the Chief Electoral Officer obtained under this Act that the Election Commissioner considers necessary for the purposes of carrying out his or her powers, duties and functions under this Act.

(4) An authorized participant, chief financial officer, registered third party or other person or organization 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 authorized participant or registered third party that is reasonably required by the Election Commissioner in the course of the Election Commissioner's duties under this Act.

(5) 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.

Offences re recall petition

55(1) A person commits an offence if the person

- (a) knowingly makes a false or misleading statement concerning the contents or effect of a recall petition,
- (b) refuses to allow an individual to read a notice of recall petition,
- (c) subject to the regulations, in any manner exerts undue influence on an individual, within the meaning of section 175 of the *Election Act*, in respect of the signing of a recall petition,

- (d) commits an offence or contravention prescribed by the regulations for the purposes of this section, or
- (e) affixes a false or forged signature on a recall petition.

(2) A person commits an offence if the person contravenes any of the following provisions or a provision that is specified for the purposes of this section and the regulations:

- (a) section 4(2) or (4);
- (b) section 5(1) or (2);
- (c) section 10 or 16;
- (d) section 11(1) or (3) or 15(1) or (3).

(3) A person that collects, uses or discloses personal information, except as authorized under this Act or the regulations, commits an offence.

(4) A person who contravenes this section is guilty of an offence and liable to a fine of not more than the amount prescribed in respect of that offence.

Obstruction

56(1) No person shall obstruct any person carrying out an inquiry, investigation or examination under this Act or withhold from that person or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation or examination.

(2) A person who contravenes this section is guilty of an offence and liable to a fine of not more than the prescribed amount.

False documents

57(1) No person shall knowingly make a false statement in any application, return, financial statement, report or other document filed with the Chief Electoral Officer under this Act.

(2) A person who contravenes this section is guilty of an offence and liable to a fine of not more than the prescribed amount.

False statements

58(1) No person shall knowingly give false information to a chief financial officer or other person authorized to accept contributions.

(2) A person who contravenes this section is guilty of an offence and liable to a fine of not more than the prescribed amount.

Expenses more than maximum

59 A person who contravenes section 13 or 18 is guilty of an offence and liable to a fine of not more than \$100 000.

Failure to provide financial statement or return

60 An applicant or the chief financial officer of an applicant who contravenes the regulations under Part 3 by failing to provide a financial statement or return is guilty of an offence and liable to a fine of not more than \$1000.

Failure to comply with directions

61 A person who fails to comply with a direction of the Chief Electoral Officer or the Election Commissioner is guilty of an offence and liable to a fine of not more than \$1000.

Third party recall advertising offences

62 A third party that contravenes Part 3 is guilty of an offence and liable to a fine not exceeding

- (a) \$10 000 if the third party is an individual, or
- (b) \$100 000 if the third party is a corporation, unincorporated organization or association.

General offences

63(1) Subject to the regulations, a person who contravenes any of the provisions of this Act, for which contravention no fine is otherwise provided, is guilty of an offence and liable to

- (a) in the case of an individual, a fine not to exceed \$10 000, or
- (b) in the case of a corporation, unincorporated organization or association, a fine not to exceed \$100 000.

(2) If a corporation commits an offence under this Act or the regulations, an officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable to the penalties set out in respect of the offence whether or not the corporation has been prosecuted or convicted.

Administrative penalties

64(1) If the Election Commissioner is of the opinion that a person has contravened a provision of this Act or a provision that is specified for the purposes of this section in the regulations, the Election Commissioner may, in accordance with the regulations, by notice in writing given to that person, require that person to pay an administrative penalty in the amount set out in the notice for each contravention.

(2) All penalties collected under this section shall be paid into the General Revenue Fund.

(3) A person who pays an administrative penalty in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

Application for injunction

65(1) If the Chief Electoral Officer or the Election Commissioner has reasonable grounds to believe that a person has committed or is likely to commit an act or omission that is contrary to this Act, the Chief Electoral Officer or the Election Commissioner may, after taking into account the nature and seriousness of the act or omission, the need to ensure the integrity of processes under this Act and the public interest, apply by originating application to the Court for an injunction described in subsection (2).

(2) If the Court, on application by the Chief Electoral Officer or the Election Commissioner under subsection (1), is satisfied that there are reasonable grounds to believe that a person has committed or is likely to commit an act or omission that is contrary to this Act, and that the nature and seriousness of the act or omission, the need to ensure the integrity of processes under this Act and the public interest justify the issuing of an injunction, the Court may issue an injunction ordering any person named in the application to do one or both of the following:

- (a) refrain from committing any act or omission that appears to the Court to be contrary to this Act;
- (b) do any act that appears to the Court to be required by this Act.

(3) No injunction may be issued under subsection (2) unless at least 48 hours' notice is given to each person named in the application or the urgency of the situation is such that service of notice would not be in the public interest.

Orders

66(1) Where a contribution has been made or accepted in contravention of this Act, the Chief Electoral Officer or the Election Commissioner may order that the amount of the contribution that was made or accepted in contravention of this Act be returned to the contributor.

(2) If it cannot be determined who made the contribution that was made or accepted in contravention of this Act, the amount ordered under subsection (1) must be paid into the General Revenue Fund.

Limitation

67 A prosecution under this Act shall be commenced within 5 years of the time when the subject-matter of the prosecution arose.

Consent to prosecute

68 No prosecution shall be instituted under this Act without the consent of the Chief Electoral Officer.

Part 6 General Regulations

Regulations

69(1) The Lieutenant Governor in Council may make regulations for the purposes of this Act

- (a) modifying provisions of the *Election Act* and the regulations under that Act to make them applicable in respect of a matter referred to in this Act, or specifying or setting out provisions in addition to, or instead of, any provision of that Act and regulations;

- (b) modifying the provisions of the *Election Finances and Contributions Disclosure Act* and the regulations under that Act to make them applicable in respect of a matter referred to in this Act, or specifying or setting out provisions applicable in addition to, or instead of, any provision of that Act and regulations.

(2) Without limiting the general powers conferred by this section, the Lieutenant Governor in Council may make regulations for the purposes of this Act

- (a) defining words or expressions, including a word or expression used in this Act;
- (b) further clarifying the definition of “organization” in section 1(1)(n) and specifying what entities or classes of entities do or do not constitute an organization to which this Act or any provision of this Act applies;
- (c) respecting the confidentiality, collection, use and disclosure of information for the purposes of this Act and the regulations authorized by this Act;
- (d) respecting the continuation of a recall petition and the related recall vote and process, despite circumstances referred to in section 47(3)(a) or (c);
- (e) respecting the administrative penalties referred to in section 64, including the registration of an unpaid administrative penalty as an order of the Court;
- (f) respecting
 - (i) compliance agreements that may or must be available for the purpose of ensuring compliance with this Act and the regulations if the Election Commissioner believes on reasonable grounds that a person or organization has committed, is about to commit or is likely to commit an act or omission that could constitute a contravention of this Act or the regulations, and
 - (ii) the consequences of failing to comply with a compliance agreement;

- (g) respecting investigations, offences, penalties, administrative penalties and other administrative action generally for the purposes of this Act;
- (h) providing with respect to any provision of the regulations under this Act that its contravention constitutes an offence;
- (i) prescribing the penalties, including imprisonment, that will apply in respect of a class of individuals, corporations, organizations, associations or groups
 - (i) for the purposes of sections 55 to 58, and
 - (ii) in respect of offences provided in a regulation made under clause (g);
- (j) to remedy any confusion, difficulty, inconsistency or impossibility arising from the application of a provision of the *Election Act* or the *Election Finances and Contributions Disclosure Act* to or in respect of any matter or thing provided under this Act;
- (k) generally respecting any other matters and things relating to the implementation and administration of this Act that the Lieutenant Governor in Council considers appropriate.

Part 7 Related Amendments

Amends SA 2012 cE-0.3

70(1) The *Education Act* is amended by this section.

(2) Section 27(1)(e) is amended by striking out “and sections 92 to 96” and substituting “, sections 92 to 96 and Division 5.1”.

Explanatory Notes

Part 7 Related Amendments

70(1) Amends chapter E-0.3 of the Statutes of Alberta, 2012.

(2) Section 27(1) presently reads in part:

27(1) The following provisions and any regulations made under them apply to a charter school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the operator of a charter school or a member of the governing body of the operator of a charter school, as the case may be:

(e) Part 4 except sections 51, 53.1, 59, 59.1, 62 and 69(a), Division 4, section 87(1)(a) and (2), section 91(b) and (c) and sections 92 to 96;

(3) The following is added after Part 4, Division 5:

**Division 5.1
Recall Petitions**

Interpretation

96.1(1) In this Division,

- (a) “notice of recall petition” means a notice of recall petition referred to in section 96.3(2);
- (b) “public notice” means
 - (i) publishing the notice at least once a week for 2 consecutive weeks in at least one newspaper that has general circulation in the area in which the municipality, school division and district interested in the matter are situated, and
 - (ii) posting the notice for 10 business days in at least 2 areas that the person who is required to give the notice considers appropriate;
- (c) “recall petition” means a recall petition commenced by a notice of recall petition that has been published on a board’s website under section 96.3(8)(a);
- (d) “recall petition signature period” means the 120-day period commencing on the date of publication of a notice of recall petition on a board’s website under section 96.3(8)(a);
- (e) “representative recall petitioner” means the individual identified as the representative recall petitioner in a notice of recall petition in accordance with section 96.3(2)(c).

(2) For the purposes of this Division, a document that is required to be filed with or submitted to the secretary of a board is filed or submitted when it is actually received by the secretary.

Application

96.2(1) This Division does not apply in respect of a trustee appointed in accordance with section 84(1).

(2) The *Petitions and Public Notices Regulation* (AR 91/2019) does not apply for the purposes of a recall petition under this Division.

(3) Division 5.1 Recall Petitions.

(3) This Division applies in respect of the board as defined in the Northland School Division under the *Northland School Division Act*.

Notice of recall petition

96.3(1) An individual may commence a recall petition by submitting a notice of recall petition in accordance with this section and the regulations, if any, to the secretary of the board to which the recall petition relates.

(2) A notice of recall petition must

- (a) identify the trustee to whom the recall petition relates by name,
- (b) state in 200 words or less the reason why the trustee should be recalled,
- (c) identify the representative recall petitioner by name, and
- (d) confirm that the board may direct any inquiries about the petition to the representative recall petitioner, and indicate the contact information to be used for this purpose.

(3) A notice of recall petition must be accompanied by a statement signed by the representative recall petitioner that

- (a) provides
 - (i) the street address of the representative recall petitioner or the legal description of the land on which the representative recall petitioner lives,
 - (ii) the representative recall petitioner's mailing address, if different, and
 - (iii) the representative recall petitioner's telephone number or email address, if any,

and

- (b) confirms that the representative recall petitioner is an individual eligible to sign the recall petition under section 96.5 and consents to the responsibilities of leading the recall petition, gathering signatures and otherwise undertaking the role and discharging the duties of a

representative recall petitioner under this Division and any other applicable enactment,

- (c) the application fee of \$500, and
- (d) any other information prescribed.

(4) The personal information referred to in subsection (3)(a) must not be disclosed, except

- (a) to the secretary of the board and the secretary's delegates, if any, for the purposes of confirming the eligibility of the representative recall petitioner and validating the recall petition,
- (b) as necessary for the administration or enforcement of this Division and the regulations, and
- (c) for the purposes of judicial review.

(5) If the secretary publishes a recall petition under subsection (8) in respect of a trustee, the secretary shall not publish any further recall petition in relation to the same trustee during the same term of office.

(6) A representative recall petitioner may not submit a notice of recall petition

- (a) within the 18-month period immediately following the day on which the trustee named in the notice of recall petition was elected, or
- (b) within the period commencing on January 1 of the year of a general election.

(7) A trustee may not submit a notice of recall petition in respect of another trustee in the same school division.

(8) If a representative recall petitioner is confirmed to be an individual eligible to sign the recall petition under section 96.5 and the notice of recall petition meets the requirements of this section, the secretary of the board must

- (a) within 7 days from the date when the notice of recall petition was submitted, publish the notice of recall petition on the board's website,

- (b) provide public notice of the notice of recall petition, and
- (c) provide notice to the following, in writing:
 - (i) the Minister;
 - (ii) the representative recall petitioner;
 - (iii) the trustee named in the notice of recall petition.

Recall petition time and sufficiency

96.4 A recall petition is sufficient if

- (a) it is submitted to the secretary of the board before the expiry of the recall petition signature period, and
- (b) it meets the requirements of sections 96.5 to 96.8 and the regulations, if any.

Eligibility to sign a recall petition

96.5(1) Only an elector who is eligible to vote in the election of a trustee of a board under section 74, 76 or 135, as applicable, and the *Local Authorities Election Act* may sign a recall petition with respect to that trustee.

(2) Only an elector who is eligible to vote in the election of a trustee of a board under section 8 of the *Northland School Division Act* may sign a recall petition with respect to that trustee.

(3) An individual shall only sign any one recall petition once.

Number of petitioners

96.6(1) A recall petition must be signed by electors of the ward or division, as the case may be, as determined under section 96.5, that are equal in number to at least 40% of the number of electors.

(2) Subject to subsection (3), on the publication of a notice of recall petition under section 96.3(8)(a), a board shall, subject to the regulations, if any, conduct a census of the ward or division to determine the number of electors.

(3) A board is not required to conduct a census under subsection (2) if one has been conducted since the general election immediately preceding the publication of the notice of recall petition under section 96.3(8)(a).

Other requirements for a recall petition

96.7(1) A recall petition must

- (a) consist of one or more pages, each of which must contain the notice of recall petition referred to in section 96.3(2), and
- (b) conform to the regulations, if any.

(2) The recall petition must include the following in legible print, where applicable, and within reasonable proximity to the signature to which it relates, for each petitioner:

- (a) the printed surname and printed given names or initials of the petitioner;
- (b) the petitioner's signature;
- (c) the street address of the petitioner or the legal description of the land on which the petitioner lives;
- (d) the petitioner's telephone number or email address, if any;
- (e) the date on which the petitioner signed the petition.

(3) Each signature must be witnessed by an adult person who must

- (a) sign opposite the signature of the petitioner, and
- (b) make an affidavit that to the best of the person's knowledge the signatures witnessed are those of individuals entitled to sign the petition.

(4) The recall petition must have attached to it the affidavits referred to in subsection (3).

(5) A recall petition may not be signed in digital form.

Counting petitioners

96.8(1) A recall petition must be filed with the secretary of the board and the secretary is responsible for determining if the recall petition is sufficient.

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

(3) In counting the number of petitioners on a recall petition the secretary must exclude the name of a person

- (a) whose signature is not witnessed,
- (b) whose signature is witnessed but for which no affidavit is attached to the petition,
- (c) whose signature appears on a page or form that does not contain the notice of recall petition referred to in section 96.3(2),
- (d) whose printed name is not included or is incorrect,
- (e) whose street address or legal description of land is not included or is incorrect,
- (f) if the date when the person signed the recall petition is not stated,
- (g) when a recall petition is restricted to certain persons,
 - (i) who is not one of those persons, or
 - (ii) whose qualification as one of those persons is not, or is incorrectly, described or set out,

or

- (h) who signed the recall petition after the expiry of the recall petition signature period.

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

Report on sufficiency of recall petition

96.9(1) The secretary of the board shall, within 45 days after the date on which a recall petition is filed, determine whether the recall petition is sufficient or insufficient in accordance with the regulations, if any.

(2) The secretary shall, at the first board meeting after determining whether the recall petition is sufficient or insufficient, make a declaration to the board as to whether the recall petition is sufficient or insufficient.

Insufficient recall petition

96.91 If a recall petition is insufficient or if no recall petition is submitted to the secretary of the board before the end of the recall petition signature period, the secretary of the board must

- (a) publish the declaration of insufficiency referred to in section 96.9 on the board's website,
- (b) provide public notice of the declaration of insufficiency, and
- (c) provide the declaration to the following, in writing:
 - (i) the Minister;
 - (ii) the representative recall petitioner;
 - (iii) the trustee named in the notice of recall petition.

Sufficient recall petition

96.92(1) If a recall petition is declared to be sufficient, on the making of the declaration,

- (a) the individual named as the trustee in the notice of recall petition is recalled,
- (b) the individual is no longer a member of the board or of any agency, commission or committee to which the trustee is appointed as a representative of the board, and
- (c) the position to which the individual was elected as a trustee is vacant.

(2) On declaring that a recall petition is sufficient, the secretary of the board must

- (a) publish the declaration of sufficiency referred to in section 96.9 on the board's website,
- (b) provide public notice of the declaration of sufficiency, and
- (c) provide the declaration to the following, in writing:
 - (i) the Minister;
 - (ii) the representative recall petitioner;

(iii) the trustee named in the notice of recall petition.

(3) Following the receipt of a declaration that a recall petition is sufficient, the board must hold a by-election in accordance with section 81, 82 or 83, as applicable.

(4) An individual recalled in accordance with this Division is eligible to be elected at the by-election referred to in subsection (3), a subsequent by-election or subsequent general election of trustees to the board if that individual is qualified for nomination as a trustee under this Act and the *Local Authorities Election Act* or the *Northland School Division Act*, as applicable.

Required return of recall petition and destruction of copies

96.93(1) Within 2 days of the day on which a secretary publishes a declaration of sufficiency in accordance with section 96.92(2)(a), the representative recall petitioner must

- (a) return the recall petition to the secretary, and
- (b) destroy all additional copies of the recall petition that the representative recall petitioner or any person acting on behalf of the representative recall petitioner made.

(2) Section 101 of the *Local Authorities Election Act* applies, with all necessary modifications, to the retention and disposition by the secretary of the recall petition referred to in subsection (1)(a).

Protection of personal information in petitions

96.94(1) Despite any provision of this Act, the *Freedom of Information and Protection of Privacy Act* or any other enactment, personal information contained in a recall petition must not be disclosed, except

- (a) to the secretary of the board and the secretary's delegates, if any, for the purposes of confirming the eligibility of the representative recall petitioner and validating the recall petition,
- (b) as necessary for the administration or enforcement of this Division and the regulations, and
- (c) for the purposes of judicial review.

(2) Minimal disclosure that occurs inadvertently in the course of collecting signatures on the recall petition is not a breach of this section.

(3) Every page of a recall petition must contain a statement that the personal information contained in the recall petition will not be disclosed, except

- (a) to the secretary of the board and the secretary's delegates, if any, for the purposes of confirming the eligibility of the representative recall petitioner and validating the recall petition,
- (b) as necessary for the administration or enforcement of this Division and the regulations, and
- (c) for the purposes of judicial review.

Recall process regulations

96.95(1) The Lieutenant Governor in Council may, for the purposes of this Division, make regulations applying any provisions of the *Local Authorities Election Act* and the regulations under that Act with modifications of those provisions as the Lieutenant Governor in Council considers appropriate to the context of this Division or otherwise considers advisable, and without limiting the general powers conferred by this subsection, the Lieutenant Governor in Council may, for the purposes of this Division, make regulations in relation to recall petitions and the recall process

- (a) providing with respect to any provision of the regulations under this subsection that its contravention constitutes an offence;
- (b) prescribing penalties, including imprisonment, in respect of offences created under clause (a).

(2) Subject to subsection (1), the Minister may make regulations in relation to recall petitions and the recall process

- (a) respecting a notice of recall petition for the purposes of section 96.3;
- (b) prescribing the information referred to in section 96.3(3)(d);
- (c) respecting the determination of the number of eligible electors for the purposes of section 96.6;
- (d) respecting the requirements for a recall petition for the purposes of section 96.7;

- (e) respecting extraordinary circumstances in respect of a recall petition, including the death or incapacity of a representative recall petitioner, and the continuation of that petition in those circumstances;
- (f) to remedy any confusion, difficulty, inconsistency or impossibility in respect of the recall process under this Division;
- (g) respecting any other matter the Minister considers necessary or advisable to carry out the intent and purpose of this Division.

Recall Petition Finances and Advertising

Regulations — recall petition finances and advertising

96.96(1) The Lieutenant Governor in Council may, for the purposes of this Division, make regulations applying any provisions of the *Local Authorities Election Act* and the regulations under that Act with modifications of those provisions as the Lieutenant Governor in Council considers appropriate to the context of this Division or otherwise considers advisable, and without limiting the general powers conferred by this subsection, the Lieutenant Governor in Council may, for the purposes of this Division, make regulations in relation to recall petition finances and advertising

- (a) providing with respect to any provision of the regulations under this subsection that its contravention constitutes an offence;
- (b) prescribing penalties, including imprisonment, in respect of offences created under clause (a).

(2) Subject to subsection (1), the Minister may, for the purposes of this Division, make regulations applying any provisions of the *Local Authorities Election Act* and the regulations under that Act with modifications of those provisions as the Minister considers appropriate to the context of this Division or otherwise considers advisable, and without limiting the general powers conferred by this subsection, the Minister may, for the purposes of this Division, make regulations in relation to recall petition finances and advertising

- (a) defining words or expressions, including a word or expression used in this Division;

- (b) respecting the duties and powers of a secretary with respect to a recall petition;
- (c) respecting any other matters relating to finances and advertising during the recall petition process that the Minister considers appropriate for the purposes of this Division.

(4) Section 247 is repealed and the following is substituted:

Petition

247(1) Except as provided in this section, when this Act provides for the doing of anything by petition or an elector wishes to present a petition to a board, the petition must be in accordance with the regulations.

(2) A recall petition must be submitted and administered in accordance with Division 5.1 of Part 4 and the regulations under that Division, if any.

Amends RSA 2000 cM-26

71(1) The *Municipal Government Act* is amended by this section.

(2) Section 168(1)(a) is amended by striking out “resignations or disqualifications” **and substituting** “resignations, disqualifications or recall petitions declared to be sufficient in accordance with section 240.8(2)”.

(3) Section 219 is repealed and the following is substituted:

Rules for petitions

219(1) Subject to subsection (2), sections 220 to 226.1 apply to all petitions to a council and the Minister under this Act, any other enactment or bylaw except to the extent that they are modified by this Act or any other enactment or, in respect of petitions to a council, by a bylaw under section 226.1.

(2) This section and sections 220 to 226.1 do not apply in respect of a recall petition under Part 7.1 or any other enactment in respect of a recall petition.

(4) The following is added after Part 7:

(4) Section 247 presently reads:

247 When this Act provides for the doing of anything by petition or an elector wishes to present a petition to a board, the petition must be in accordance with the regulations.

71(1) Amends chapter M-26 of the Revised Statutes of Alberta 2000.

(2) Section 168(1) presently reads in part:

168(1) The Minister may make an order described in subsection (2) in the following situations:

(a) vacancies on council through resignations or disqualifications have reduced the number of councillors to less than a quorum;

(3) Section 219 presently reads:

219 Sections 220 to 226 apply to all petitions to a council and the Minister under this Act, any other enactment or bylaw except to the extent that they are modified by this Act or any other enactment or, in respect of petitions to a council, by a bylaw under section 226.1.

(4) Part 7.1 Recall Petitions.

Part 7.1 Recall Petitions

Interpretation

240.1(1) In this Part,

- (a) “notice of recall petition” means a notice of recall petition referred to in section 240.2(2);
- (b) “recall petition” means a recall petition commenced by a notice of recall petition that has been published on a municipality’s website under section 240.2(8)(a);
- (c) “recall petition signature period” means the 60-day period commencing on the date of publication of a notice of recall petition on a municipality’s website under section 240.2(8)(a);
- (d) “representative recall petitioner” means the individual identified as the representative recall petitioner in a notice of recall petition in accordance with section 240.2(2)(b).

(2) For the purposes of this Part, a document that is required to be filed with or submitted to the chief administrative officer of a municipality is filed or submitted when it is actually received by the chief administrative officer.

Notice of recall petition

240.2(1) An individual may commence a recall petition by submitting a notice of recall petition in accordance with this section and the regulations, if any, and any direction and orders referred to in section 240.96, to the chief administrative officer of the municipality to which the recall petition relates.

(2) A notice of recall petition must

- (a) identify the councillor to whom the recall petition relates by name,
- (b) identify the representative recall petitioner by name, and
- (c) confirm that the municipality may direct any inquiries about the petition to the representative recall petitioner, and indicate the contact information to be used for this purpose.

- (3)** A notice of recall petition must be accompanied by
- (a) a statement signed by the representative recall petitioner that
 - (i) provides
 - (A) the street address of the representative recall petitioner or the legal description of the land on which the representative recall petitioner lives,
 - (B) the representative recall petitioner's mailing address, if different, and
 - (C) the representative recall petitioner's telephone number or email address, if any,
 - and
 - (ii) confirms that the representative recall petitioner is an individual eligible to sign the recall petition under section 240.4 and consents to the responsibilities of leading the recall petition, gathering signatures and otherwise undertaking the role and discharging the duties of a representative recall petitioner under this Part and any other applicable enactment,
 - (b) the application fee of \$500, and
 - (c) any other information prescribed.
- (4)** The personal information referred to in subsection (3)(a) must not be disclosed, except
- (a) to the chief administrative officer and the chief administrative officer's delegates, if any, for the purposes of confirming the eligibility of the representative recall petitioner and validating the recall petition,
 - (b) as necessary for the administration or enforcement of this Part and the regulations, and
 - (c) for the purposes of judicial review.
- (5)** If the chief administrative officer publishes a recall petition under subsection (8) in respect of a councillor, the chief

administrative officer must not publish any further recall petition in relation to the same councillor during the same term of office.

(6) A representative recall petitioner may not submit a notice of recall petition

- (a) within the 18-month period immediately following the day on which the councillor named in the notice of recall petition was elected, or
- (b) within the period commencing on January 1 of the year of a general election.

(7) A councillor may not submit a notice of recall petition in respect of another councillor in the same municipality.

(8) If a representative recall petitioner is confirmed to be a person eligible to sign the recall petition under section 240.4 and the notice of recall petition meets the requirements of this section, the chief administrative officer of the municipality must

- (a) within 7 days from the date when the notice of recall petition was submitted, publish the notice of recall petition on the municipality's website, and
- (b) provide the notice of recall petition to the following:
 - (i) the Minister;
 - (ii) the representative recall petitioner;
 - (iii) the councillor named in the notice of recall petition.

Recall petition time and sufficiency

240.3 A recall petition is sufficient if

- (a) it is submitted to the chief administrative officer of the municipality before the expiry of the recall petition signature period, and
- (b) it meets the requirements of sections 240.4 to 240.7 and the regulations, if any.

Eligibility to sign a recall petition

240.4(1) Only an elector who is eligible to vote in an election for a councillor under the *Local Authorities Election Act* may sign a recall petition with respect to that councillor.

(2) An individual shall only sign any one recall petition once.

Number of petitioners

240.5 A recall petition must be signed

- (a) in the case of a municipality other than a summer village, by electors of the municipality or ward, as determined under section 240.4, equal in number to at least 40% of the population, and
- (b) in the case of a summer village, by electors of the summer village equal in number to at least 50% of the number of summer village residences in the summer village.

Other requirements for a recall petition

240.6(1) A recall petition must

- (a) consist of one or more pages, each of which must contain the notice of recall petition referred to in section 240.2(2), and
- (b) conform to the regulations, if any.

(2) The recall petition must include the following in legible print, where applicable, and within reasonable proximity to the signature to which it relates, for each petitioner:

- (a) the printed surname and printed given names or initials of the petitioner;
- (b) the petitioner's signature;
- (c) the street address of the petitioner or the legal description of the land on which the petitioner lives;
- (d) the petitioner's telephone number or email address, if any;
- (e) the date on which the petitioner signed the petition.

(3) Each signature must be witnessed by an adult person who must

- (a) sign opposite the signature of the petitioner, and
- (b) make an affidavit that to the best of the person's knowledge the signatures witnessed are those of persons entitled to sign the petition.

(4) The recall petition must have attached to it the affidavits referred to in subsection (3).

(5) A recall petition may not be signed in digital form.

Counting petitioners

240.7(1) A recall petition must be filed with the chief administrative officer of the municipality and the chief administrative officer is responsible for determining if the recall petition is sufficient.

(2) No name may be added to or removed from a recall petition after it has been filed with the chief administrative officer.

(3) In counting the number of petitioners on a recall petition, the chief administrative officer must exclude the name of a person

- (a) whose signature is not witnessed,
- (b) whose signature is witnessed but for which no affidavit is attached to the petition,
- (c) whose signature appears on any page or form that does not contain the notice of recall petition referred to in section 240.2(2),
- (d) whose printed name is not included or is incorrect,
- (e) whose street address or legal description of land is not included or is incorrect,
- (f) if the date when the person signed the recall petition is not stated,
- (g) when a recall petition is restricted to certain persons,
 - (i) who is not one of those persons, or
 - (ii) whose qualification as one of those persons is not, or is incorrectly, described or set out,
- or
- (h) who signed the recall petition after the expiry of the recall petition signature period.

(4) If 5000 or more petitioners are necessary to make a petition sufficient, a chief administrative officer may use a random

statistical sampling method with a 95% confidence level to determine the sufficiency of the petition, instead of counting and checking each petitioner.

Report on sufficiency of recall petition

240.8(1) The chief administrative officer of the municipality must, within 45 days after the date on which a recall petition is filed, determine whether the recall petition is sufficient or insufficient in accordance with the regulations, if any, and any direction and orders referred to in section 240.96.

(2) The chief administrative officer of the municipality must, at the first council meeting after determining whether the recall petition is sufficient or insufficient, make a declaration to the council as to whether the recall petition is sufficient or insufficient.

Insufficient recall petition

240.9 If a recall petition is insufficient or if no recall petition is submitted to the chief administrative officer of the municipality before the end of the recall petition signature period, the chief administrative officer of the municipality must

- (a) publish the declaration of insufficiency referred to in section 240.8(2) on the municipality's website, and
- (b) provide the declaration to the following:
 - (i) the Minister;
 - (ii) the representative recall petitioner;
 - (iii) the councillor named in the notice of recall petition.

Sufficient recall petition

240.91(1) If a recall petition is declared to be sufficient, on the making of the declaration,

- (a) the individual named as the councillor in the notice of recall petition is recalled,
- (b) the individual is no longer a member of the council or of any council committee, and
- (c) the position to which the individual was elected as a councillor is vacant.

(2) On declaring that a recall petition is sufficient, the chief administrative officer of the municipality must

- (a) publish the declaration of sufficiency referred to in section 240.8(2) on the municipality's website, and
- (b) provide the declaration to the following:
 - (i) the Minister;
 - (ii) the representative recall petitioner;
 - (iii) the councillor named in the notice of recall petition.

(3) Following the receipt of a declaration that a recall petition is sufficient, the council must hold a by-election in accordance with section 162 or 163 as applicable.

(4) An individual recalled in accordance with this Part is eligible to be elected at the by-election referred to in subsection (3), a subsequent by-election or a subsequent general election in the municipality if the person is eligible for nomination under the *Local Authorities Election Act*.

Required return of recall petition and destruction of copies

240.92(1) Within 2 days of the day on which a chief administrative officer publishes a declaration in accordance with section 240.9(a) or 240.91(2)(a), the representative recall petitioner shall

- (a) return the recall petition referred to in section 240.6 to the chief administrative officer, and
- (b) destroy all additional copies of the recall petition that the representative recall petitioner, or any person acting on behalf of the representative recall petitioner, made.

(2) Section 101 of the *Local Authorities Election Act* applies, with all necessary modifications, to the retention and disposition by the chief administrative officer of the recall petition referred to in subsection (1)(a).

Protection of personal information in petitions

240.93 For greater certainty, section 226.2 applies to personal information contained in a recall petition.

Recall process regulations

240.94(1) The Lieutenant Governor in Council may make regulations for the purposes of this Part modifying provisions of the *Local Authorities Election Act* and the regulations under that Act to make them applicable in respect of a recall petition, including specifying or setting out provisions applicable to a recall petition in addition to, or instead of, any provision of that Act and regulations, and without limiting the general powers conferred by this subsection, the Lieutenant Governor in Council may, for the purposes of this Part, make regulations in relation to recall petitions and the recall process

- (a) providing with respect to any provision of the regulations under this subsection that its contravention constitutes an offence;
- (b) prescribing penalties, including imprisonment, in respect of offences created under clause (a).

(2) Subject to subsection (1), the Minister may make regulations in relation to recall petitions and the recall process

- (a) respecting a notice of recall petition for the purposes of section 240.2;
- (b) prescribing the information referred to in section 240.2(3)(c);
- (c) respecting the determination of the number of eligible electors for the purposes of section 240.5;
- (d) respecting the requirements for a recall petition for the purposes of section 240.6;
- (e) respecting any other matter the Minister considers necessary or advisable to carry out the intent and purpose of this Part.

Recall Petition Finances and Advertising

Regulations — recall petition finances and advertising

240.95(1) The Lieutenant Governor in Council may make regulations for the purposes of this Part modifying provisions of the *Local Authorities Election Act* and the regulations under that Act to make them applicable in respect of a recall petition,

including specifying or setting out provisions applicable to a recall petition in addition to, or instead of, any provision of that Act and regulations and without limiting the general powers conferred by this subsection, the Lieutenant Governor in Council may, for the purposes of this Part, make regulations in relation to recall petition finances and advertising

- (a) providing with respect to any provision of the regulations under this subsection that its contravention constitutes an offence;
- (b) prescribing penalties, including imprisonment, in respect of offences created under clause (a).

(2) Subject to subsection (1), the Minister may make regulations for the purposes of this Part modifying provisions of the *Local Authorities Election Act* and the regulations under that Act to make them applicable in respect of a recall petition, including specifying or setting out provisions applicable to a recall petition in addition to, or instead of, any provision of that Act and regulations, and without limiting the general powers conferred by this subsection, the Minister may, for the purposes of this Part, make regulations in relation to recall petition finances and advertising

- (a) defining words or expressions, including a word or expression used in this Part;
- (b) respecting the duties and powers of a chief administrative officer with respect to a recall petition;
- (c) respecting any other matters relating to finances and advertising during the recall petition process that the Minister considers appropriate for the purposes of this Part.

General

Ministerial powers

240.96(1) The Minister may at any time, by order,

- (a) determine population for the purposes of section 240.5(a),
- (b) give directions to a council, a councillor named in a recall petition, a chief administrative officer, a representative recall petitioner or any other person or classes of persons identified by the regulations,

- (c) decide any question arising from
 - (i) extraordinary circumstances in respect of a recall petition, including the death or incapacity of a representative recall petitioner, and the continuation of that petition in appropriate circumstances, or
 - (ii) any confusion, difficulty, inconsistency or impossibility of applying this Part,

and

- (d) give directions that the Minister considers appropriate concerning any matter to carry out the purpose of this Part, including an order that alters a date prescribed by this Act for the doing of any matter or thing.

(2) The *Regulations Act* does not apply to an order under subsection (1).

(5) Section 540 is amended by adding the following after clause (d):

- (d.1) a councillor is no longer a member of the council as the result of a recall petition declared to be sufficient in accordance with section 240.8(2),

Part 8 Coming into Force

Coming into force

72 This Act comes into force on Proclamation.

(5) Section 540 presently reads in part:

540 No bylaw, resolution or proceeding of a council and no resolution or proceeding of a council committee may be challenged on the ground that

(d) a person has been declared disqualified from being a councillor,

Part 8 Coming into Force

72 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To