



THE FOUNDATION FOR  
DEMOCRATIC ADVANCEMENT

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**Contents:**

History of the Alberta Provincial Electoral System

1. Laws and regulation on equality of political content of media and broadcasters
2. Laws and regulations on equality of candidate and party influence
3. Laws and regulations on equality of electoral finance
4. Laws and regulations on equality of voter say

Information Sources

## History of the Alberta Provincial Electoral System

The Canadian province of Alberta was established with the 1905 Alberta Act. In the time since its establishment, there have only been majority governments, with four parties having power: The Liberal Party from 1905 to 1921; the United Farmers of Alberta (UFA) from 1921 to 1935; The Social Credit Party from 1935 to 1971; and the Progressive Conservative Party which has ruled from 1971 to the time of writing in 2012 (Election Almanac, 2011). Macpherson (1962) described the system in Alberta during the reign of The Social Credit Party as not a multi-party, one-party or non-party system, but instead as a quasi-party system for numerous reasons: the swift manner in which the UFA and Social Credit Party came into power (which could also be said of the Progressive Conservative Party, going from six seats out of 65 in the Legislative Assembly in 1967, to 45 of 75 seats in 1971 (Election Almanac)), the lack of a competitive method in creating policies, and the fact that parties were still used and opposition parties still present. In regards to opposition parties, Stewart and Archer (2000) characterize them as entities which struggle more to survive than to win governments.

A variety of explanations have been given for this quasi-party system. One explanation from Macpherson (1962) concerns the genesis of Alberta, initially being a province quite controlled by the federal government, and whose population was similar in regards to class. The distrust of the federal government was used by Macpherson to explain the relative dissolution of the federal parties' provincial counterparts during the reign of the UFA and Social Credit Parties, though Lisac (2004) notes that a similar distrust has been fostered and used by politicians during the reign of the Alberta Progressive Conservative party. In addition to this apparent cultural explanation, Stewart and Archer (2000) discuss the relationship between how the party leader was perceived and the longevity of their party's rule, noting the popularity of long-serving leaders and premiers William Aberhart, Preston Manning, Peter Lougheed and Ralph Klein. Stewart and Archer contrasts the reigns of these individuals with that of former Progressive Conservative leader and Premier Don Getty, whose time in office was marked by an increasing opposition size.

Further, or perhaps alternate, explanations for the political state in Alberta are derived from a variety of disparities between the parties, in particular between the Progressive Conservatives, and Liberals and New Democratic Party (NDP). One disparity noted by Lisac (2004) is the greater experience of Progressive Conservative candidates compared to those in the opposition. Lisac notes that there is little reason for someone to become a candidate for an opposition party, due to impairment of future non-political employment, hostility from the governing party, making less money than some government members (due to such members' presence on boards and agencies) and having less media coverage than the governing party. This last point is supported by findings from Wesley and Colborne (2005) that in provincial media coverage of the 2004 Alberta General Election, 58% of media election stories analyzed by the authors mentioned the Progressive Conservatives, while the Liberals were mentioned 16% of the time, and the NDP 12% of the time. A disparity in campaign finances has also been found. Quantitatively, Lisac notes that in 2003 the Progressive Conservatives raised \$2.3

million, the Liberals raised \$348, 759 and the NDP raised \$417, 966; according to Public Interest Alberta (2009) the Progressive Conservatives spent twice as much as all other parties combined in the 2004 and 2008 elections. Public Interest Alberta also notes qualitative differences in financing, with the Progressive Conservatives receiving most of their donations from corporations, while the NDP received most of their donations from individuals. The Alberta electoral system, in particular its first past the post system, has also been blamed for the weak state of opposition parties in the province (McCormick, cited in Stewart and Archer, 2000).

# **1. Laws and regulations that pertain to the political content of the media and broadcasters before, during, and after an election**

## **Main Research Findings:**

### **Impartial and Balanced Electoral Coverage:**

There is no provincial requirement that radio and television broadcasters have to be non-partisan and balanced in their electoral coverage. (Source: 1986 Radio Regulations, Article 6; 1987 Television Broadcasting Regulations).

Alberta press is guided by freedom of the press and a non-enforceable Code of Practice through the Alberta Press Council. (Source: Canadian Charter of Rights and Freedoms; Alberta Press Council, Code of Practice).

### **Media Ownership Concentration Laws:**

Alberta has no media concentrations laws, which would support plurality of electoral discourse. (Source: FDA researchers could find no media concentration laws). (In Norway, France, and Bolivia, there are media ownership concentrations laws which support the plurality of electoral discourse. (Source: FDA Electoral Fairness Audit Reports on Norway, France, and Bolivia)).

### **Surveys/Polls:**

Election surveys must include information regarding: who sponsored the survey, who conducted the survey, the date it was conducted, the population that the sample was drawn from, the number of people polled, and the margin of error. (Source: Election Act, Article 135.2).

If recognized statistical methods are not employed in a survey, this must be made clear. (Source: Election Act, Article 135.3).

No new election survey results that have not been already released may be released during the 'blackout period' 24 hours before the election. (Source: Election Act, Article 135.4) (In Bolivia, election propaganda including polls and surveys are not allowed 48 hours prior to the Election Day. (Source: FDA Electoral Fairness Audit Report on Bolivia) In France, there is no commercial political advertisement 3 months prior to an election period; election propaganda during a campaign period must allow candidates adequate time to respond. (Source: FDA Electoral Fairness Audit Report on France). In Egypt (under Mubarak), polls and surveys are not allowed 7 days prior to the Election Day. (Source: FDA Electoral Fairness Audit Report on Egypt)).

Survey results previously released to the public prior to the 'blackout period' can be transmitted again to the public. (Source: Election Act, Article 135.4).

## **Freedom of the Media:**

Television broadcast licensees may not broadcast anything which contravenes the law or exposes anyone to discrimination based on race, religion, color, sex, sexual orientation, age, or disability. They also may not broadcast anything false or misleading. (Source: 1987 Television Broadcasting Regulations, Article 5).

Radio broadcasters must maintain a program log for one year, which will contain content and subject information for each program or advertisement aired. This log must be made available to a commission if requested. (Source: 1986 Radio Regulations, Article 8).

There is freedom of the Alberta press, radio, and broadcasters. (Source: Canadian Charter on Rights and Freedoms).

There are no legislative restrictions on the journalistic profession in carrying out their work. (Source: FDA researchers could find no legislation restricting the work of journalists barring reasonable limits such legislation against slander and false and misleading information.)

There are no legislative provisions which guarantee the access of journalists to government representatives and officials. (Source: the FDA could find no legislative provisions which guarantee the access of journalists to government sources.)

## **Press Code of Practice/Conduct:**

Alberta press is guided by freedom of the press and a non-enforceable Code of Practice through the Alberta Press Council. (Source: Canadian Charter of Rights and Freedoms; Alberta Press Council, Code of Practice).

There are no provisions in the Alberta Press Council's Code of Practice that require non-partisan and balanced electoral coverage. (Source: Alberta Press Council, Code of Practice).

The Alberta Press Council's Code of Practice has provisions for a right of reply, but the Code is not enforced by the Council. Council does not monitor press companies, assumes they have their own codes of practice, and does not tell them what to publish. (Source: Alberta Press Council, about page on website).

## **Research Excerpts:**

### **Election Act**

**135(1)** Subject to subsection (2), no person may

- (a) display inside or on the outside of, or
- (b) distribute within,

a building used for a polling place at an advance poll or on polling day any election circular, card, poster, bill or other paper except those posted by the deputy returning officer or other election officials as required by this Act.

(2) When a polling place is located in a building containing a complex of interlocking offices, stores or other facilities, the prohibition in subsection (1) applies only to the office, store or facility comprising the area designated as a polling place.

(3) Where a person displays any circular, card, poster, bill or other paper contrary to subsection (1) or (2), the returning officer may cause it to be removed, and neither the returning officer nor any person acting under the returning officer's instructions is liable for trespass or damages resulting from or occasioned by the removal.

**135.2(1)** The first person who transmits the results of an election survey, other than a survey described in section 135.3, to the public during an election period and any person who transmits them to the public within 24 hours after they are first transmitted to the public shall provide the following together with the results:

- (a) the name of the sponsor of the survey;
- (b) the name of the person or organization that conducted the survey;
- (c) the date on which or the period during which the survey was conducted;
- (d) the population from which the sample of respondents was drawn;
- (e) the number of people who were contacted to participate in the survey;
- (f) if applicable, the margin of error in respect of the data obtained.

(2) In addition to the information referred to in subsection (1), the following must be provided in the case of a transmission to the public by means other than broadcasting:

the wording of the survey questions in respect of which data was obtained, and the means by which a report referred to in subsection (3) may be obtained.

- (a)
- (b)

(3) A sponsor of an election survey shall, at any time during an election period after the results of the survey are transmitted to the public, provide, on request, a copy of a written report on the results of the survey, as transmitted under subsection (1).

(4) The written report must include the following, as applicable:

- (a) the name and address of the sponsor of the survey;
- (b) the name and address of the person or organization that conducted the survey;
- (c) the date on which or the period during which the survey was conducted;
- (d) information about the method used to collect the data from which the survey results were derived, including
  - (i) the sampling method, (ii) the population from which the sample was drawn,
  - (iii) the size of the initial sample,
  - (iv) the number of individuals who were asked to participate in the survey and the numbers and respective percentages of them who participated in the survey, refused to participate in the survey, and were ineligible to participate in the survey,
  - (v) the dates and time of day of the interviews,
  - (vi) the method used to recalculate data to take into account in the survey the results of participants who expressed no opinion, were undecided or failed to respond to any or all of the survey questions, and
  - (vii) any weighting factors or normalization procedures used in deriving the results of the survey;
- (e) the wording of the survey questions and, if applicable, the margins of error in respect of the data obtained.

(5) A sponsor may charge a fee of up to \$0.25 per page for a copy of a report provided under subsection (3).

**135.3** The first person who transmits the results of an election survey that is not based on recognized statistical methods to the public during an election period and any person who transmits them within 24 hours after they are first transmitted to the public shall indicate that the survey was not based on recognized statistical methods.

**135.4(1)** No person shall knowingly cause to be transmitted to the public, in an electoral division on polling day before the close of all of the polling places in that electoral division, the results of an election survey that have not previously been transmitted to the public.

(2) No person shall transmit to the public, in an electoral division on polling day before the close of all of the polling places in that electoral division, the results of an election survey that have not previously been transmitted to the public.

**135.5(1)** No landlord or person acting on a landlord's behalf may prohibit a tenant from displaying election advertising posters on the premises to which the tenant's lease relates, and no condominium corporation or any of its agents may prohibit the owner of a condominium unit from displaying election advertising posters on the premises of his or her unit.

(2) Notwithstanding subsection (1), a landlord, person, condominium corporation or agent referred to in that subsection may set reasonable conditions relating to the size or type of election advertising posters that may be displayed on the premises and may prohibit the display of election advertising posters in common areas of the building in which the premises are found.

## Television Broadcasting Regulations, 1987

### PROGRAMMING CONTENT

5. (1) A licensee shall not broadcast

(a) anything in contravention of the law;

(b) **any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;**

(c) any obscene or profane language or pictorial representation; or

(d) **any false or misleading news.**

### POLITICAL BROADCASTS

**8. During an election period, a licensee shall allocate time for the broadcasting of programs, advertisements or announcements of a partisan political character on an equitable basis to all accredited political parties and rival candidates represented in the election or referendum.**

## Radio Regulations, 1986

### Political Broadcasts

6. During an election period, a licensee shall allocate time for the broadcasting of programs, advertisements or announcements of a partisan political character on an equitable basis to all accredited political parties and rival candidates represented in the election or referendum.

### Logs and Records

8. (1) Except otherwise provided under a condition of its licence, a licensee shall

(a) keep, in a form acceptable to the Commission, a program log or a machine readable record of the matter broadcast by the licensee;

(b) retain the log or record for a period of one year after the date when the matter was broadcast; and

(c) cause to be entered in the log or record each day the following information:

- (i) the date,
- (ii) the call letters, location and frequency of the licensee's station,
- (iii) the time at which each station identification announcement is made,
- (iv) in relation to each program broadcast,
  - (A) the title and a brief description,
  - (B) subject to subsection (2), the number of the relevant content category,
  - (C) the time at which the program begins and ends,
  - (D) the code set out in the schedule indicating the origin of the program and where applicable the language, type or group, and
  - (E) if applicable, the code set out in the schedule identifying non-Canadian programming, and
- (v) in relation to each commercial message, the quarter hour during which it is broadcast, its duration and the number of the relevant content subcategory.

(2) Where a program falls into more than one content category, a licensee shall cause to be entered in its program log or machine readable record the two principal content categories in descending order of their relative importance in terms of broadcast time.

(3) The times required to be entered pursuant to subparagraph (1)(c)(iii), clause (1)(c)(iv)(C) and subparagraph (1)(c)(v) are local times.

(4) A licensee shall furnish, to the Commission on request, its program log or machine readable record for any day, with a certificate by or on behalf of the licensee attesting to the accuracy of its content.

(5) A licensee shall retain a clear and intelligible tape recording or other exact copy of all matter broadcast

(a) for four weeks from the date of the broadcast; or

(b) where the Commission receives a complaint from any person regarding the matter broadcast or for any other reason wishes to investigate it and so notifies the licensee before the expiration of the period referred to in paragraph (a), for eight weeks from the date of the broadcast.

(6) Where, before the expiry of the applicable period referred to in subsection (5), the Commission requests from the licensee a clear and intelligible tape recording or other exact copy of matter broadcast, the licensee shall furnish it to the Commission forthwith.

(7) Subsections (1) to (4) do not apply to a person licensed to operate a radio network.

“election period” means

(a) in the case of a federal or provincial election or of a federal, provincial or municipal referendum, the period beginning on the date of the announcement of the election or referendum and ending on the date the election or referendum is held, or

(b) in the case of a municipal election, the period beginning two months before the date of the election and ending on the date the election is held; (*période électorale*)

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

**Limits on contributions 44.2(1)** No election advertising contribution shall be made by a person, corporation, trade union or employee organization to a third party or used to incur election advertising expenses unless

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

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

(2) No third party required to be registered under section 9.1 and no person acting for the third party required to be registered under section 9.1 shall accept election advertising contributions unless the third party is registered under section 9.1.

## **Alberta Press Council, Code of Practice**

### **Code Of Practice**

Newspapers, periodicals and journalists have a duty to defend the freedom of the Press in the interest of the public, and to resist censorship. Unethical conduct jeopardizes this objective.

### **Accuracy**

1. It is the duty of the newspapers to avoid publishing inaccurate or misleading statements and further, it is the duty of newspapers to correct promptly, and with due prominence, significant inaccuracies or such misleading statements.

### **Opportunity To Reply**

2. It is the duty of newspapers to allow a fair opportunity for reply when reasonably called for. Individuals and organizations should be given a fair and reasonable opportunity to reply to a personal attack or criticism.

### **Privacy**

3. Publishing material or making inquiries about the private lives of individuals without their consent is not acceptable unless these are in the public interest overriding the right of privacy.

### **Balance**

4. A newspaper has an obligation to make all reasonable efforts to pursue comment from any person or organization about whom it publishes, or plans to publish, damaging statements in a news story.

### **Journalism Of Opinion**

5. Newspapers are free to exercise the widest possible latitude in expressing opinions, no matter how controversial or unpopular the opinions may be. Columnists, editorial cartoonists and others should have the same latitude in expressing opinion, but when they present what purports to be a statement of fact, they should strive to ensure it is accurate. Journalists should clearly distinguish between comment and fact, and conjecture should not be expressed as a statement of fact. Opinions should be distinguishable from news stories.

Newspapers should provide a forum for the exchange of comment and criticism, especially when such comment is opposed to its editorial position.

### **Subterfuge**

6. Newspapers and journalists serving them should use straightforward means to obtain information or pictures. Their use of subterfuge can be justified only to obtain material which ought to be published in the public interest and could not be obtained by any other means.

### **Payment For Articles**

7. Payments or offers of payment for stories, pictures or information should not be made to witnesses or potential witnesses in current criminal proceedings, or to people engaged in crime or their associates, except where the material concerned ought to be published in the public interest and the payment is necessary to enable this to be done.

### **Intrusion Into Grief**

8. Newspapers and journalists serving them should in general avoid intruding into personal grief. Inquiries should be carried out with sympathy and discretion.

**Innocent Relatives**

9. Newspapers should exercise care and discretion before identifying relatives of persons convicted or accused of crimes where the reference to them is not directly relevant to the matter reported.

**Interviewing Children**

10. Journalists should exercise discretion when interviewing a child under the age of 18 or a dependent adult, in the absence of, or without the consent of, a parent or guardian.

**Children In Sex Cases**

11. Save in exceptional circumstances, newspapers should not, even where the law permits it, identify children under the age of 18 as victims, witnesses or defendants involved in cases concerning sexual offences.

**Sexual Offences**

12. Newspapers should not identify victims of sexual offences, or publish material likely to contribute to such identification.

**Pictures**

13. The APC recognizes the importance of newspapers having the widest possible latitude to publish images. Newspapers should consider the impact on their readers of publishing pictures which are prurient, gratuitously violent or which needlessly cause distress.

**Discrimination**

14. Newspapers should not publish material likely to encourage discrimination, in particular, discrimination based on the race, national or ethnic origin, color, religion, sex, age, sexual orientation, mental or physical disability, and should avoid reference to such matters in prejudicial or pejorative contexts unless they are directly relevant to the story.

**Financial Journalism**

15. Journalists should not use for their own profit financial information they receive in advance of its general publication.

**Hospitals**

16. Journalists making inquiries at hospitals or similar institutions should identify themselves to a responsible official before entering, except in very rare cases where information which ought to be disclosed could not otherwise be obtained.

**Confidential Sources**

17. Journalists have an obligation to protect confidential sources of information. New sources should be disclosed to readers in a news story unless there is a compelling reason not to do so.

## **2. Laws and regulations that pertain to the influence of political candidates and parties before, during, and after an election**

### **Main Research Findings:**

#### **Campaign Period:**

The election campaign period is 28 days. (Source: Election Act, Article 38.1 (2) and 39).

#### **Electoral Boundaries:**

The Alberta electoral districts are divided by law into 87 electoral divisions with a population within 25 percent of the provincial population average and not below 25 percent the average population except under special considerations. The Alberta legislature determines the electoral boundaries within the parameters of Alberta law, and the Canadian Charter on Rights and Freedoms. Citizen recourse against the Alberta legislature in cases of unreasonable electoral divisions which favor a particular political party is to file a law suit and publicly expression their views. (Source: Electoral Boundaries Commission Act; Proposed Electoral Division Areas, Boundaries, and Names for Alberta, Interim Report to the Speaker of the Legislative Assembly of Alberta, Introduction, The Law).

#### **Methodology for Determining Winners of Ridings/Constituencies/Districts:**

The elections of provincial constituency seats are based on first-past-the-post. The Alberta electoral system is devoid of proportional representation. (Source: Election Act, Article 138).

#### **Registration of Candidates:**

A candidate must necessarily be: a Canadian citizen; 18 years old; a resident of Alberta for six months continuously up to polling day; registered under section 9 of the Election Finances Act; and nominated by 25 or more electors. Candidates must not be: a prison inmate; or a member of the senate or House of Commons. (Source: Election Act, Article 56; Alberta Election Act, Article 59).

Candidates must be nominated to be on the electoral lists. Candidates need at least 25 signed support by eligible electors in the electoral division and make a deposit of \$500. (Source: Election Act, Articles 56-61).

#### **Registration of Parties:**

For political parties to be registered, they need a party name approved by the Chief Electoral Officer and have signatures of support from at least 0.3 percent of the number of electors eligible to vote at the last general election or by having endorsed candidates

for at least half of the electoral division in the province at an upcoming general election. (Source: Election Finances and Contributions Disclosure Act, Article; Elections Alberta).

Parties must be registered with the Chief Electoral Officer. The Chief Electoral Officer may not register the party if the name of the party is likely to be confused with another or a former party, or name or abbreviation is unacceptable to the officer for “any reason”. (Source: Election Finances and Contributions Disclosure Act, Article 7).

### **Scrutineers:**

Candidates may appoint up to four scrutineers to represent the candidate at each polling station or observe the election on the candidates’ behalf. (Source: Election Act, Article 79).

The following may not be involved with the counting of ballots: individual who are not qualified to vote; individuals who have been convicted of an indictable offense warranting a punishment of greater than 2 years imprisonment in the previous 10 years; candidates; official agents; members of parliament; members of the legislative assembly; and judges. (Source: Election Act, Articles 24, 29).

### **Electoral lists and Ballots:**

Names of candidates are printed in size 10 font including their given name, middle name, initials or nickname or any combination of them. Names are listed in alphabetical order based on surname. (Source: Election Act, Article 79).

### **Electoral Complaints:**

An application may be submitted for a judicial recount of the ballots. There are only two qualifying bases for this request: ballots were incorrectly rejected or not counted, or the certificate of return does not reflect the number of votes for that candidate. (Source: Election Act, Article 144).

A judge of the Court of the Queen’s Bench gives the results of a recount. (Source: Election Act, Article 147).

If the results are not accepted after a recount, a decision by a judge of the Court of the Queens Bench may be appealed. The court may order the parties to bear their own costs for the appeal and/or recount. Depending on the situation, costs may be paid by the Crown in Right of Alberta. (Source: Election Act, Articles 148, 148.1).

Candidate has the right to inspect all election documents, with the exception of the ballots, up to 30 days following the election. (Source: Election Act, Article 152).

Chief Electoral Officer oversees the election and may conduct an investigation (Source: Election Act, Article 4.2).

Candidates and parties have a right to make a legal petition against the election results or the election of a specific candidate. The petition may be filed with a Alberta judiciary centre within 30 days after election results are deemed published or if the matter pertains to eligibility of the candidate's nomination any time during the continuation of the Legislative Assembly. The petitioner must make a \$1000 deposit to cover fees of the respondent. Also, there is an appeals process for petitions. (Source: Election Act, Articles 185-201).

There is no process for candidates and parties to file electoral complaints during the election period. (Source: FDA researchers could no find process in Alberta Election Act.)

### **Candidate and Party Campaign Advertisement:**

Posters are not allowed to be displayed or distributed at polling stations or in the building containing the polling station. If posters are present, a returning officer may cause it to be removed, and is not liable for damage caused by the removal. (Source: Election Act, Article 135).

No landlord or person acting on the landlords' behalf may prohibit a tenant from displaying election posters on the premises of his or her unit. (Source: Election Act, Article 135.5).

During an election, radio and television broadcasters will provide [unpaid] time for programs, advertisements or announcements of a partisan political nature, equitably for all accredited political parties and candidates represented in the election (Source: 1986 Radio Regulations, Article 6; 1987 Television Broadcasting Regulations, Article 8).

There are no provisions for equitable time for election propaganda outside of the 30 day election period. (Source: 1986 Radio Regulations; 1987 Television Broadcasting Regulations).

### **Surveys/Polls:**

Election surveys must include information regarding: who sponsored the survey, who conducted the survey, the date it was conducted, the population that the sample was drawn from, the number of people polled, and the margin of error. (Source: Election Act, Article 135.2).

If recognized statistical methods are not employed in a survey, this must be made clear. (Source: Election Act, Article 135.3).

### **Legislative Process:**

Alberta has comprehensive laws and regulations on the enforcement of the Alberta Election Act. There are established fines and persecution through the Provincial Courts.

The enforcement covers the offenses/violations to the Election Act and electoral corruption. However, the Chief Electoral Officer is only person who has the power to proceed with prosecution under the Election Act. (Source: Election Act, Article 163.1 (1)). (Source: Election Act, Articles 154-184).

No food or beverages may be provided to voters at polling stations with the intent of influencing a vote for or against a particular party or candidate. (Source: Election Act, Article 162).

### **Structure of Government:**

The Alberta government is comprised of a legislative assembly and no senate (unicameral). The legislative assembly is made up elected officials. The leader of the party with the most seats in the assembly is the Premier. All provincial legislation must be approved by the Lieutenant Governor, Alberta's representative of the Queen. Major decisions are made by Alberta cabinet, which is chaired by the Premier and comprised on MLAs from the political party with the majority of seats in Assembly. For bills to pass they need at least simple majority of the Assembly. Bills that have the support of the Alberta cabinet likely pass, while bills that do not have support of the Cabinet likely do not pass. (Source: Service Alberta, Structure of Government; Legislative Assembly Act, Article 7 Bills and Acts; The Citizen's Guide to Alberta Legislature, Powers of Government and Making Law).

### **Freedom of Speech and Assembly:**

Citizens have freedom of expression and assembly before, during, and after the election campaign period. (Source: Canadian Charter of Rights and Freedoms).

### **Research Excerpts:**

#### **Election Act**

**4.2(1)** For the purpose of carrying out an inquiry or conducting an investigation under this Act, the Chief Electoral Officer has all the powers of a commissioner under the *Public Inquiries Act* as though the inquiry or investigation were an inquiry under that Act.

**(2)** For the purpose of carrying out an inquiry or conducting an investigation under this Act, a representative of the Chief Electoral Officer, on production of the representative's authorization from the Chief Electoral Officer, may at any reasonable time enter any premises referred to in the authorization in which books or documents of a registered political party, registered constituency association or registered candidate relevant to the subject-matter of the inquiry or investigation are kept and may examine and make copies of the books or documents or remove them temporarily for the purpose of making copies.

**(3)** Any information with respect to the affairs of a registered political party, registered constituency association or registered candidate that is reasonably required by the Chief Electoral Officer in the course of the Chief Electoral Officer's duties under this Act must be provided by the registered political party, registered constituency association or registered candidate within 30 days after a written request for it is received from the Chief Electoral Officer or within an extended period that the Chief Electoral Officer may determine.

**(4)** Subject to subsection (5), any former Chief Electoral Officer and every person who is or was employed or engaged by the Office of the Chief Electoral Officer shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of an inquiry or investigation.

(5) Information and allegations to which subsection (4) applies may be disclosed to the person whose conduct is the subject of proceedings under this Act; disclosed by a person conducting an investigation to the extent necessary to enable that person to obtain information from another person; adduced in evidence at an inquiry under this section; disclosed where the Chief Electoral Officer believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Attorney 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.

**5.1** No proceedings lie against the Chief Electoral Officer, or against a person acting for or under the direction of the Chief Electoral Officer, for anything done, or omitted to be done, in good faith in the exercise or performance or the intended exercise or performance of a power, duty or function under this Act, the *Election Finances and Contributions Disclosure Act* or the *Senatorial Selection Act*.

**24** The following persons may not be appointed or act as enumerators: (a) persons who are not electors; (b) members of the Parliament of Canada; (c) members of the Legislative Assembly; (d) candidates; (e) official agents; (f) judges of federal or provincial courts; (g) persons who have within the immediately preceding 10 years been convicted of an indictable offence for which the penalty that may be imposed is greater than 2 years' imprisonment.

### **Part 3**

Elections, By-Elections and Plebiscites

General election dates

**38.1(1)** Nothing in this section affects the powers of the Lieutenant Governor, including the power to dissolve the Legislature, in Her Majesty's name, when the Lieutenant Governor sees fit.

(2) Subject to subsection (1), a general election shall be held within the 3-month period beginning on March 1, 2012 and ending on May 31, 2012, and afterwards, general elections shall be held within the 3-month period beginning on March 1 and ending on May 31 in the 4th calendar year following polling day in the most recent general election.

#### **Authorization to issue writ of election**

**39** Every election shall be commenced by the passing of an order of the Lieutenant Governor in Council

(a) authorizing the issue of a writ of election in the prescribed form directed and addressed to the returning officer of each electoral division for which an election is to take place,

(b) fixing the date of the writ,

(i) which must be the same for all writs in the case of a general election, and

(ii) which must be the same as the date of the order in the case of a by-election,

#### **Eligibility**

**56** A person is eligible to be nominated as a candidate in an election if on the day the person's nomination paper is filed the person

(a) is a Canadian citizen,

(b) is of the full age of 18 years or will be that age on polling day,

(c) has been ordinarily resident in Alberta continuously from

the day 6 months immediately preceding polling day,  
(c.1) is registered under section 9 of the *Election Finances and Contributions Disclosure Act*,  
(c.2) is not an inmate,  
(d) is not prohibited from being nominated as a candidate under this Act or the *Senatorial Selection Act* by reason of section 57, 58, 178 or 181, and  
(e) is not a member of the Senate or House of Commons of Canada.

**Prohibition against nomination**

**57** A person is prohibited from being nominated as a candidate in an election if

- (a) the Speaker has laid a report before the Assembly pursuant to section 44(1) of the *Election Finances and Contributions Disclosure Act*,
- (b) that person was the registered candidate or the chief financial officer of the registered candidate referred to in the report,
- (c) the Court did not dispense with compliance with section 43(1) of that Act by an order under section 44(3) of that Act, and
- (d) nomination day for the election occurs within
  - (i) the 8-year period following the day on which the Speaker laid the report before the Assembly, or
  - (ii) where the financial statement has been filed with the Chief Electoral Officer, the 5-year period following the day of filing,whichever period expires first.

**Prohibition against nomination**

**58** A person is prohibited from being nominated as a candidate in an election if

- (a) that person has been declared disqualified from membership of the Legislative Assembly pursuant to section 29 of the *Legislative Assembly Act* or has been expelled from membership of the Legislative Assembly pursuant to section 29 of the *Conflicts of Interest Act*,
- (b) nomination day for the election occurs within the 8-year period following the day on which the declaration of disqualification or expulsion was made, and
- (c) the cause of the disqualification under the *Legislative Assembly Act* or of the breach under the *Conflicts of Interest Act* has not been removed by nomination day.

**Nomination of candidates**

**59(1)** Any 25 or more electors of an electoral division may nominate a person eligible to be a candidate as a candidate for that electoral division by signing a nomination paper in the prescribed form.

**(1.1)** The nomination paper referred to in subsection (1) must be filed with the returning officer for the electoral division for which the person is being nominated any time after the publication of the proclamation but prior to 2 p.m. of the day fixed for the closing of nominations.

**(2)** The signatures of the electors nominating a candidate must be witnessed by another elector who shall complete the required affidavit on the nomination paper prior to its filing.

**(3)** A candidate whose nomination papers are not filed with the

returning officer prior to the time set for the closing of nominations ceases to be a candidate on the closing of nominations.

**(4)** At any one time, a person is not eligible to be nominated as a candidate for more than one electoral division.

**Filing nomination papers**

**61(1)** A nomination paper is not valid and shall not be filed with the returning officer unless the original nomination paper is submitted for filing and

(a) it contains a properly completed affidavit of the attesting witness or witnesses, as the case may be, to the signatures of the nominating electors,

(b) it states an address within Alberta at which documents may be served and notices given respecting the candidate,

(c) it contains the appointment, name and address of the official agent immediately followed, subject to clause (d), by the signature of the person being nominated,

(d) the person being nominated confirms by written communication

(i) that the person is eligible under section 56 for nomination,

(ii) that the person consents to the person's nomination,

(iii) the appointment of the person's official agent,

(iv) that the person is the officially endorsed candidate of a registered political party or is an independent candidate,

and the confirmation is filed with the nomination paper,

(e) it is accompanied with a deposit of \$500,

(f) it is filed with the returning officer prior to 2 p.m. of the date fixed for the closing of nominations.

**79(1)** Each candidate may appoint in the prescribed form not more than 4 electors resident in the electoral division as scrutineers

(a) to represent the candidate at each polling station,

(b) to observe the election procedures on the candidate's behalf, and

(c) to be present at the registration officer's station while an elector is being sworn in under section 95

**(3)** The names of the candidates shall be printed on the ballot as follows:

(a) the candidate's (i) given name,

(i.1) middle name, (ii) initials, or (iii) nickname

or any combination of them in a type of 10 point capital letters;

(b) the candidate's surname shall appear following the given name, initials or nickname, as the case may be, and be in a type of 12 point capital letters;

(c) the candidates' names shall be listed on the basis of the alphabetical order of their surnames and, where 2 or more candidates have identical surnames, those candidates' names shall be listed on the basis of the alphabetical order of their given names;

**Vote by Special Ballot**

**116(1)** An elector who is unable to vote at an advance poll or at the poll on polling day on account of

(a) physical incapacity,

(b) absence from the electoral division,

(c) being an inmate including a person sentenced to a term of imprisonment of 10 days or less or for the non-payment of fines,

(d) being a returning officer, election clerk, administrative assistant, supervisory deputy returning officer, registration

officer, deputy returning officer or other staff member working in the office of a returning officer, poll clerk, interpreter, peace officer appointed under the Peace Officer Act, candidate, official agent or scrutineer who may be located on polling day at a polling place in a polling subdivision within the electoral division other than that in which the elector is ordinarily resident,

(e) being a resident of a remote area designated under section 31, or

(f) any other circumstances prescribed by the Chief Electoral Officer,

may apply to vote by Special Ballot.

(2) An application for a Special Ballot may be made

(a) in writing,

(b) by telephone,

(c) by fax or electronic mail, or

(d) in person,

by an elector to the returning officer of the elector's electoral division at any time between the issue of the writ and the closing of polls on polling day.

(3) On receipt of an application under this section, the returning officer or election clerk shall

(a) enter in the Special Ballot Poll Book

(i) the elector's name and where the elector is ordinarily resident, and

(ii) the name and number of the polling subdivision in which the elector resides,

and

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

(4) The returning officer may delegate to the administrative assistant any functions of the returning officer or election clerk under this section and sections 117 and 118.

#### Secure Special Ballot

116.1(1) An elector who believes that his or her personal safety may be at risk if the elector appears in person at a poll or if the elector's name or address appears in a poll book may apply to vote by Secure Special Ballot.

(2) The provisions of this Act relating to the procedure of voting by Special Ballot apply to voting by Secure Special Ballot, but the Chief Electoral Officer may modify the procedure to ensure that the name and address of an applicant under this section remain secure.

#### Name and address of Special Ballot voters to candidates

117 The returning officer shall, on request, make available to any candidate in the electoral division or the candidate's official agent the names and addresses of the ordinary residences of those electors in the electoral division who have applied for and been provided with the appropriate forms under section 116.

#### Voting by Special Ballot

118(1) On receipt of the prescribed forms, the voter shall mark the ballot by writing, with a pen or pencil of any colour, in the space provided, the name of the candidate or the registered political party of the candidate of the voter's choice.

(2) After marking the voter's ballot, the voter shall

(a) place the marked ballot in the ballot envelope,

(b) seal the ballot envelope,

- (c) place the ballot envelope in the certificate envelope,
  - (c.1) place a copy of the prescribed identification document or documents in the certificate envelope,
  - (d) complete and sign part 1 of the certificate and seal the certificate envelope,
  - (e) place the certificate envelope in the outer envelope, and
  - (f) seal the outer envelope.
- (3) The outer envelope, when sealed, shall be forwarded so that it reaches the returning officer not later than the close of the polling places on polling day.
- (4) On receipt of the outer envelope, the returning officer or election clerk shall remove the certificate envelope and determine
- (a) whether the name on the certificate envelope is the same as that of an individual already recorded in the Special Ballot Poll Book under section 116, and
  - (b) that part 1 of the certificate is properly completed.
- (5) On determining that the voter is recorded in the Special Ballot Poll Book and that part 1 of the certificate is completed, the returning officer or election clerk, as the case may be, shall,
- (a) if the returning officer or election clerk is satisfied as to the voter's eligibility to vote,
    - (i) sign part 2 of the certificate,
    - (ii) if the voter's name appears on the list of electors for the polling subdivision in which the voter is entitled to vote, put a line through the voter's name and enter opposite the name of that person on the list of electors the word "special",
    - (iii) if the voter's name does not appear on the list of electors for the polling subdivision in which the voter is entitled to vote, enter the voter's name on the list of electors and, opposite the name, the word "special",
    - (iv) record in the Special Ballot Poll Book in the appropriate column the date the returning officer or election clerk received the certificate envelope,
    - (v) open the certificate envelope, remove the sealed ballot envelope and place the sealed ballot envelope in a sealed ballot box marked "special ballot",
    - (vi) enter in the Special Ballot Poll Book, in the appropriate columns, a check mark or other annotation indicating that the voter has voted and the reason for using the Special Ballot, that is, physical incapacity, absence, inmate, election officer, candidate, official agent, scrutineer, remote area or another reason prescribed by the Chief Electoral Officer, and
    - (vii) retain the certificate envelope and forward it to the Chief Electoral Officer in accordance with section 142, or
  - (b) if the returning officer or election clerk is not satisfied as to the voter's eligibility to vote,
    - (i) retain the certificate envelope unopened,
    - (ii) treat the ballot in the envelope as a rejected ballot, and
    - (iii) mark the certificate envelope accordingly.
- (6) At the close of the polling place on polling day, the returning

officer shall deliver the Special Ballot ballot box to any deputy returning officer and poll clerk in the electoral division and advise them of the names of the electors who have so voted, and the deputy returning officer and poll clerk shall proceed in accordance with section 113 as if the ballot box were from an advance poll.

(6.1) Any election officer appointed for the electoral division may assist or be asked to assist the deputy returning officer and poll clerk with their duties under subsection (6).

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

### **Announcement of official results**

**138(1)** The returning officer shall attend at the place, date and time stated in the election proclamation and announce the results of the official count and

(a) declare elected the candidate who received the largest number of votes, or

(b) if no candidate can be declared elected because there is an equality of votes for 2 or more candidates, declare that the results of the election are subject to a judicial recount under this Part.

(2) The returning officer shall retain a copy of the Statement of Official Results for a period of 10 days after announcing the results of the official count to allow for a possible judicial recount under this Part.

**144(1)** An application may be made to the Court in accordance with this section for a judicial recount of some or all of the votes for an election.

(2) Except as provided in subsection (5), an application may only be made on one or both of the following bases:

(a) that votes were not correctly accepted or ballots were not correctly rejected;

(b) that a Certificate and Return does not accurately record the number of votes for a candidate.

(3) An application must be filed not later than 8 days after the date the returning officer announces the results of the official count under section 138 and on the filing of the application, the clerk of

**94RSA 2000 Section 145** ELECTION ACT Chapter E-1

the Court shall set the date of the recount not later than the 10th day after the filing of the application.

(4) The application may only be filed

(a) by a candidate or the candidate's official agent, or

(b) by a returning officer in the case of a declaration made under section 138(1)(b).

(5) The returning officer shall make an application under this section if a declaration has been made under section 138(1)(b).

(6) At least 4 days' notice of the time and place appointed for the recount shall be given by the applicant

(a) to the candidates, in the manner prescribed in section 68, and

(b) to the returning officer, if the returning officer is not the applicant, and the election clerk.

(7) A candidate served with notice under subsection (6) respecting a recount that is limited to a recount of votes that have been rejected or in respect of which there has been an objection may, not later than the 2nd day following service of the notice, make application for any further recount as if the application had been made within the original 8-day period.

**147** On conclusion of a recount, the judge shall immediately certify the result to the returning officer, who shall, on the 3rd day after the certification,

(a) declare elected the candidate found to have received the largest number of votes, unless the returning officer is served with a notice of appeal under section 148(1), or

- (b) declare that the results of the election are subject to an appeal under section 148
- (i) if the returning officer is served with a notice of appeal under section 148(1), or
- (ii) if no candidate can be declared elected because there is an equality of votes for 2 or more candidates.

**148(1)** Any party may appeal to the Court of Appeal from the decision of a judge of the Court of Queen's Bench respecting a recount under section 146 by serving the judge, the parties and the returning officer with a notice of appeal not later than the 2nd day following the judge's certification of the result.

**(2)** The returning officer shall appeal if, after the results of a recount referred to in section 147, a candidate cannot be declared elected because there is an equality of votes for 2 or more candidates.

**(3)** A notice of appeal may limit the appeal to specified ballots.

**(4)** If an appeal is limited to specified ballots, the judge shall

(a) seal in a packet the ballots so specified, and

(b) immediately forward the packet and the certified results to the Registrar of the Court of Appeal.

**(5)** If an appeal is not limited to specified ballots, the judge shall immediately forward all ballots and relevant documentation to the Registrar of the Court of Appeal.

**(6)** On receipt of the ballots and documents, the Registrar of the Court of Appeal shall set the matter down for hearing not later than the 10th day after the receipt, and shall notify the parties and the returning officer accordingly.

**(7)** At the conclusion of the appeal, the Court of Appeal shall declare the results of the election in accordance with its recount and shall issue to the returning officer a certificate of those results.

**(8)** On receipt of the certificate of results under subsection (7), the returning officer shall

(a) declare elected the candidate found to have received the largest number of votes, or

(b) if no candidate can be declared elected because there is an equality of votes for 2 or more candidates, declare that no member was elected for the electoral division.

**148.1(1)** If a recount is conducted or an appeal is heard under this Part, the court may direct

(a) that the parties bear their own costs, or

(b) that costs be paid to one or more of the parties by any or all of the following:

(i) (ii) (iii)

the applicant; one or more of the candidates; the Crown in right of Alberta.

**(2)** Costs must be determined in accordance with the *Alberta Rules of Court* and the practice and procedure of the Court of Queen's Bench or the Court of Appeal, as the case may be.

**152(1)** A candidate and the candidate's official agent, or either of them, may for a period of 30 days after the publication in The Alberta Gazette of the name of the candidate declared elected in the relevant electoral division, inspect any election documents, except ballots, retained by the Chief Electoral Officer and pertaining to the election in that electoral division.

## **Offences**

### **General offence**

**154(1)** A person who contravenes this Act other than

(a) a contravention referred to in sections 155 to 161, or

(b) a corrupt practice referred to in Part 6,

is guilty of an offence and liable to a fine of not more than \$500.

**(2)** An offence under this Part shall be tried in The Provincial Court of Alberta under the summary conviction procedure.

RSA 1980 cE-2 s150

### **Refusal by election officer to carry out duties**

**155** A person who, having been appointed an election officer and having taken the election officer's oath of office, neglects or refuses to perform any duty to be performed by that election officer is guilty of an offence and liable to a fine of not more than

(a) \$500, in the case of a returning officer, and

(b) \$200, in the case of any other election officer.

## **Part 5**

### **Offences**

#### **General offence**

**154(1)** A person who contravenes this Act other than  
(a) a contravention referred to in sections 155 to 161, or  
(b) a corrupt practice referred to in Part 6,  
is guilty of an offence and liable to a fine of not more than \$500.

**(2)** An offence under this Part shall be tried in The Provincial Court of Alberta under the summary conviction procedure.

#### **Refusal by election officer to carry out duties**

**155** A person who, having been appointed an election officer and having taken the election officer's oath of office, neglects or refuses to perform any duty to be performed by that election officer is guilty of an offence and liable to a fine of not more than

- (a) \$500, in the case of a returning officer, and
- (b) \$200, in the case of any other election officer.

**156** Repealed 2004 c23 s71.

#### **Impersonation**

**157(1)** A person who is not an enumerator and who represents that the person is an enumerator or displays any identification purporting to be an enumerator's identification documents is guilty of an offence and liable to a fine of not more than \$1000.

**(2)** A person who is not an election officer and who represents that the person is an election officer is guilty of an offence and liable to a fine of not more than \$1000.

**(3)** A person who is not a candidate and who represents that the person is a candidate is guilty of an offence and liable to a fine of not more than \$1000.

**(4)** A person who is not a campaign worker of a candidate and who represents that the person is a campaign worker of a candidate is guilty of an offence and liable to a fine of not more than \$1000.

#### **Interference with right of access**

**158** A person who contravenes section 29(3) or 133(3) is guilty of an offence and liable to a fine of not more than \$1000.

#### **Interference with posted documents**

**159** A person who, without authorization, takes down, covers up, mutilates, defaces or alters any proclamation, notice or other document required to be posted under this Act is guilty of an offence and liable

- (a) if the person is an election officer, to a fine of not more than \$1000, and
- (b) in any other case, to a fine of not more than \$200.

#### **False statements about candidate**

**160** A person who, before or during an election and for the purpose of affecting the voting for a candidate at that election, makes or publishes any false statement in relation to the character or conduct of that candidate or of the withdrawal of that candidate, is guilty of an offence and liable to a fine of not more than \$2000.

#### **Improper appointment of election officer**

**161** A person who

- (a) procures an appointment as an election officer by false pretence, deceit or other improper means,
    - (a.1) knows or ought to know that he or she is ineligible to be appointed or to act as an election officer, or
  - (b) acts as an election officer without lawful authority,
- is guilty of an offence and liable on summary conviction to a fine of not more than \$1000.

## **Entertaining**

**162(1)** A person who, because an elector has voted or is about to vote, or for the purpose of influencing an elector to vote for or against a particular candidate or registered political party, causes or permits any

(a) food or beverages, or  
(b) money, ticket, voucher or order for the procurement of food or beverages,  
to be provided to an elector is guilty of an offence and liable to a fine of not more than \$500.

**(2)** The provision of food or beverages

(a) by or at the expense of a person to a meeting of electors at the person's usual place of residence, if that residence is a private home,

(b) to a meeting of electors, if the food or beverages are paid for by those electors, or

(c) by or on behalf of a candidate

(i) to the candidate's campaign workers or to any person acting as a scrutineer on behalf of the candidate, or

(ii) to persons who attend at the candidate's campaign headquarters,

is deemed not to be a contravention of subsection (1).

## **Offence re use of information**

**163** Any person who

(a) uses any information obtained from the register for a purpose other than that referred to in section 13(1), (7) or (8),

(b) uses any information provided to, or obtained by, the Chief Electoral Officer under section 13(2) other than for the purpose of creating or revising the register,

(c) uses any information obtained under section 30 other than for the purpose of the enumeration, or

(d) contravenes section 20,

is guilty of an offence and liable to a fine of not more than \$100 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

## **Consent to prosecute**

**163.1(1)** No prosecution shall be instituted under this Act without the consent of the Chief Electoral Officer.

**(2)** A prosecution under this Act may be commenced within 3 years of the commission of the alleged offence but not afterwards.

## **Part 6**

### **Corrupt Practices**

#### **Improper practices**

**164** A person commits a corrupt practice who wilfully

(a) alters, defaces or destroys a ballot or the initials of the deputy returning officer on a ballot,

(b) without authority supplies a ballot to any person,

(c) places in a ballot box a paper other than the ballot that the person is authorized by law to place in it,

(d) delivers to the deputy returning officer any paper other than the ballot given to the person by the deputy returning officer, to be placed in the ballot box,

(e) takes a ballot out of the polling place,

(f) without authority destroys, takes, opens or damages a

ballot box or book or packet of ballots or a ballot in use or used for the purposes of an election,  
(g) being a deputy returning officer, puts the deputy returning officer's initials on the back of any paper that is not but purports to be, or is capable of being used as, a ballot at an election,  
(h) prints a ballot when not authorized under this Act to do so,  
(i) prints a document that purports to be, or is capable of being used as, a ballot at an election, or  
(j) being authorized by the returning officer to print the ballots for an election, with fraudulent intent prints more ballots than the person is authorized to print.

**False statements re list of electors**

**165** A person commits a corrupt practice who wilfully makes a false statement for the purpose of inducing an enumerator or a returning officer

(a) to omit the name of any person entitled to have the person's name entered on the list of electors, or  
(b) to insert or retain on the list of electors the name of any person who is not entitled to have the person's name so inserted or retained.

**Interference with voting secrecy**

**166** A person commits a corrupt practice who,

(a) being entitled to remain in a polling place during polling hours or to be present during counting of the ballots, fails to maintain or aid in maintaining the secrecy of the voting, or  
(b) contravenes section 105 or 106(2) or (3).

**Fraudulent voting**

**167** A person commits a corrupt practice who

(a) votes or attempts to vote when the person knows or ought to know that the person is not qualified to vote,  
(b) signs a false declaration under section 95, 99(1) or 104 or takes a false oath,  
(c) induces or procures, attempts to induce or procure, or aids and abets any other person to vote or attempt to vote, when the person knows or ought to know that the other person is not qualified to vote.

RSA 2000 cE-1 s167;2010 c8 s49

**Falsification of documents**

**168** An election officer or other person

(a) whose duty it is to deliver poll books or lists of electors, or  
(b) who has the custody of a certified list of electors, who in any way wilfully falsifies the certified list, list of electors or poll book, commits a corrupt practice.

**Wilful falsification of ballot count**

**169** An election officer who intentionally miscounts the ballots or in any other manner falsifies a count commits a corrupt practice.

**Betting**

**170** A person who, for the purpose of influencing an election, makes a bet on

(a) the result of the election or a portion of it, or  
(b) any event or contingency relating to the election commits a corrupt practice.

**Provision of time to vote**

**171** An employer who directly or indirectly  
(a) refuses to allow, or  
(b) by intimidation, undue influence or in any other manner interferes with the allowance of,  
an employee to have the period of absence for voting required under section 132 commits a corrupt practice.

**Improper inducement**

**172(1)** A person commits a corrupt practice who, either personally or by any other person on the person's behalf, in order to induce an elector to vote or not to vote or to vote for or not to vote for a particular candidate

(a) offers, gives, lends or promises to offer, give or lend or promises to procure or attempts to procure any money or other valuable consideration to or for the elector or any person on behalf of the elector or to or for any other person,

(b) gives, procures or promises to give or procure or attempts to procure any office, position or employment to or for the elector or any other person, or

(c) does any act referred to in clause (a) or (b) in order to reward any person for having voted or not having voted.

**(2)** A person commits a corrupt practice who, either personally or by any other person on the person's behalf, solicits from any candidate or official agent

(a) a gift or loan of any money or other valuable consideration,

(b) a promise to give or lend money or other valuable consideration,

(c) any office, position or employment, or

(d) a promise to give or procure any office, position or employment,

as a reward for agreeing to vote or not to vote, voting or not voting, agreeing to vote for a particular candidate or procuring or attempting to procure the election of the candidate.

**(3)** A person commits a corrupt practice who does one or more of the following:

(a) procures, promises to procure or attempts to procure the election of any candidate on, or as a result of, any act referred to in subsection (1);

(b) causes any money to be advanced or paid to any person with the intent that all or any portion of the money be expended on any corrupt practice;

(c) knowingly causes any money to be paid in settlement or repayment of money expended in whole or in part on any corrupt practice;

(d) before or during an election either personally or by any other person on the person's behalf, receives, agrees to receive or contracts for

(i) any money or other valuable consideration, whether by gift or loan, or

(ii) any office, position or employment,

to or for the person or any other person because of or as a reward for voting or not voting, or for agreeing to vote or not to vote;

(e) after an election, either personally or by any other person on the person's behalf, receives any money or other

valuable consideration because of and as a reward for  
(i) having voted or not having voted at an election, or  
(ii) having induced any other person to vote or not vote at an election;

(f) in order to induce a person

(i) to allow the person to be nominated as a candidate,

(ii) to refuse to allow the person to be nominated as a candidate, or

(iii) to withdraw the person's nomination as a candidate,

either gives or procures, agrees to give or procure or attempts to procure any office, position or employment for any person.

**Wilful damage to poll book**

**173** A person who wilfully causes a poll book to be damaged, destroyed or obliterated commits a corrupt practice.

**Multiple voting**

**174** A person commits a corrupt practice who

(a) applies at an election for a ballot in the name of another person, whether living or dead, or of a fictitious person,

(b) having already voted, applies at the same election for a ballot in the person's own name, or

(c) votes more than once at the same election.

**Undue influence**

**175(1)** A person commits a corrupt practice who,

(a) either personally or by any other person on the person's behalf,

(i) uses or threatens to use force or restraint,

(ii) inflicts or threatens to inflict harm or loss, or

(iii) in any manner practises intimidation,

on or against an elector in order to induce or compel the elector to vote or not to vote, or on account of the elector having voted or not having voted, or

(b) by abduction, duress or any false or fraudulent pretence or device

(i) prevents or interferes with the free exercise of the franchise of an elector, or

(ii) induces or prevails on an elector to vote or refrain from voting.

**(2)** It is a false pretence within the meaning of this section to represent to an elector directly or indirectly that the ballot to be used or the mode of voting at an election is not secret.

**Election Finances and Contributions Disclosure Act**

**176** A person who contravenes section 45, 46 or 47 of the *Election Finances and Contributions Disclosure Act* commits a corrupt practice.

1992 c12 s43

**Corrupt practice offence**

**177(1)** A person who commits a corrupt practice is guilty of an offence and liable to a fine of not more than \$5000 or to imprisonment for not more than 2 years or to both fine and imprisonment.

**(2)** An offence under this Part shall be tried in the Court of Queen's Bench under the summary conviction procedure.

**Corrupt practice by candidate**

**178(1)** If the Court finds that an elected candidate is guilty of a corrupt practice or that a corrupt practice was committed with the knowledge and consent of the elected candidate, the Court shall

declare the election in which the candidate was elected void.

(2) If the Court finds that a candidate, other than the elected candidate, is guilty of a corrupt practice or that a corrupt practice was committed with the knowledge and consent of the candidate, the Court shall send a report of its findings to the Chief Electoral Officer and, subject to subsection (3), may declare the election in which the candidate was nominated void.

(3) The Court may confirm the election of a candidate in relation to which the Court finds that a corrupt practice was committed by another candidate if the Court is satisfied that

(a) the elected candidate did not also commit a corrupt practice,

(b) the corrupt practice of the other candidate was not committed with the knowledge and consent of the elected candidate, and

(c) the corrupt practice of the other candidate did not materially affect the results of the election.

(4) During the 8 years immediately following the date on which the Chief Electoral Officer receives the report of the Court under subsection (1) or (2), the candidate who is the subject of the report is, subject to subsection (5), prohibited from

(a) being nominated as a candidate under this Act,

(b) being elected to any public office under any other Act,

(c) being entered on any list of electors,

(d) being registered as an elector,

(e) voting at an election, and

(f) holding any office at the nomination of the Crown.

(5) If the Court finds that

(a) a corrupt practice was committed by a candidate, or by any other person with the knowledge and consent of a candidate,

(b) the corrupt practice was committed without any corrupt intent and in ignorance that was excusable in the circumstances, and

(c) the candidate honestly desired and attempted as far as reasonably possible to have the election conducted according to law,

the Court shall make an order declaring that the prohibitions referred to in subsection (4) do not apply to the candidate.

#### **Corrupt practice by candidate's official agent**

**179(1)** If the Court finds that a candidate's official agent is guilty of committing a corrupt practice, the Court shall send a report of its findings to the Chief Electoral Officer and, subject to subsection (2), shall declare the election void.

(2) The Court shall not make an order declaring that the election of a candidate is void by reason of the corrupt practice of an official agent if the Court is satisfied that

(a) the candidate did not commit a corrupt practice,

(b) the corrupt practice was not committed with the knowledge and consent of the official agent's candidate, and

(c) the corrupt practice of the official agent did not materially affect the results of the election.

#### **Submission of report**

**180** On receiving the report of the Court pursuant to section 178(2) or 179(1) or 181(1), the Chief Electoral Officer shall send a

copy of the report to the Lieutenant Governor in Council.

**Corrupt practice by non-candidate**

**181(1)** Subject to subsection (2), if a person other than a candidate is found guilty of committing a corrupt practice, the Court shall send a report of its findings to the Chief Electoral Officer and that person is, during the 8 years immediately following the date on which the Chief Electoral Officer receives the report of the Court, subject to the same prohibitions to which a candidate is liable under section 178(4).

**(2)** If the Court finds that the corrupt practice committed by a person referred to in subsection (1)

(a) was done without any corrupt intent and in an ignorance that was excusable in the circumstances,

(b) was a mere technical contravention of this Part, or

(c) was an unintentional contravention of this Part,

the Court shall make an order declaring that the prohibitions referred to in section 178(2) do not apply to that person.

**Payments not constituting corrupt practice**

**182(1)** The following payments made by a candidate do not constitute a corrupt practice or an improper payment:

(a) reasonable rent or hire of halls or other places used by a candidate personally to address public meetings of electors, and the expenses incurred in

(i) providing equipment or services to be used in respect of the meeting, and

(ii) heating, lighting and cleaning the premises rented;

(b) reasonable, ordinary and necessary travelling and living expenses of the candidate;

(c) reasonable, ordinary and necessary travelling and living expenses of one speaker for each public meeting to be addressed by the candidate if the speaker accompanies the candidate and travels with the candidate for the purpose of so speaking;

(d) reasonable and ordinary charges for the hire of conveyances for the use of the candidate in travelling to and from public meetings and in canvassing in the electoral division and reasonable and ordinary charges for the services and maintenance of a person operating the conveyance.

**(2)** The onus is on the candidate to show that the campaign expenses paid by the candidate under subsection (1) were fair, reasonable and proper and not in excess of what is ordinarily paid for similar facilities, services and goods.

**(3)** The contracting for or the receipt of ordinary and reasonable charges

(a) by the owner or possessor of a hall or other place in which to hold bona fide public meetings for purposes related to the election,

(b) by a printer for printing lists of electors, election addresses or advertisements or notices of election meetings, or

(c) by any person for the hire of transportation used in connection with and for the proper purposes of the election,

is lawful and does not disqualify the owner, printer or other person from voting.

### **Effect of previous corrupt practices**

**183(1)** If an election is void due to one or more corrupt practices being committed and a 2nd election is held, the 2nd election is a new election and is not to be considered void by reason of corrupt practices committed at the former election except for those corrupt practices that were

- (a) the personal acts of the candidate, or
- (b) the personal acts of the candidate's official agent done with the candidate's knowledge and consent.

**(2)** Notwithstanding subsection (1), the new election is not to be considered void for corrupt practices by the candidate at the former election if the corrupt practices were not proved at a trial and so adjudged by the Court so as to make applicable the prohibitions specified in section 178.

### **Prohibitions based on perjured evidence**

**184** If a person is subject to the prohibitions under section 178 or 181 and a witness on the basis of whose testimony the prohibitions arose is convicted of perjury in respect of that testimony, the Court of Appeal on

- (a) the motion of the person subject to the prohibitions, and
- (b) being satisfied that the prohibitions arose by reason of the perjury, may order the prohibitions to cease.

## Part 7

### Controverted Elections

#### Filing of petition

**185(1)** A petition may be filed with the Court in accordance with this Part to void an election by reason of the undue return or undue election of a candidate as the member of the Legislative Assembly for an electoral division.

**(2)** The petition

- (a) may be filed only by
  - (i) a candidate defeated in the election, or
  - (ii) a person who on the polling day of the election was qualified to vote at the election,
- (b) except as provided in clause (c), shall be filed with the Court within 30 days after the date of the issue of The Alberta Gazette containing the notice published pursuant to section 149, and
- (c) may be filed with the Court at any time during the continuation of the Legislative Assembly of which the elected candidate is a member, if the grounds for the petition relate only to the eligibility of the respondent as a candidate at the time of the filing of the candidate's nomination paper.

#### Petition

**186(1)** The petition

- (a) may be in the prescribed form;
- (b) shall within the time prescribed by section 185 be filed at the judicial centre located in the electoral division or, if there is none, at the judicial centre closest to the electoral division;
- (c) shall contain the following statements:
  - (i) the right of the petitioner to petition;

(ii) the holding and result of the election in general terms;

(iii) in a brief form the facts and grounds relied on to sustain the prayer;

(d) shall conclude with a prayer that the election be declared void and set aside.

(2) No person, other than the candidate whose election is challenged, shall be named as a respondent in the petition.

#### Security for costs

187 The petitioner shall at the time the petitioner files the petition deposit with the clerk the sum of \$1000 as security for the respondent's costs of and incidental to the petition and the proceedings under the petition.

#### Service of petition

188(1) A copy of the petition shall, within 20 days after being filed, be served on the respondent, and service of the copy of the petition may be effected

(a) in the way that service of a statement of claim in an ordinary civil action in the Court is effected, or

(b) in the manner provided by section 68.

(2) On the Court being satisfied by affidavit either before or after the time limited by subsection (1) for the service of a copy of the petition

(a) that every reasonable effort has been made to effect service, and

(b) that service has not been effected,

it may ex parte extend the time for effecting service for a period not exceeding 10 days and so on from time to time until service has been effected, or the Court may make an ex parte order for substitutional service of the petition.

#### Address for service

189(1) The petitioner shall endorse on the petition an address for service, which shall not be more than 5 kilometres from the clerk's office, at which all summonses, notices, demands and other papers in the proceedings may be served on the petitioner, and in default of the petitioner doing so the summonses, notices, demands and other papers in the proceedings may be served on the petitioner by being filed with the clerk.

(2) The respondent shall, within 10 days after being served with the petition, file with the clerk a notice in writing specifying an address for service, which shall not be more than 5 kilometres from the clerk's office, at which all summonses, notices, demands and other papers in the proceedings may be served on the respondent, and in default of the respondent doing so the summonses, notices, demands and other papers may be served on the respondent by being filed with the clerk.

#### Application to set aside petition

190 The respondent may, at any time within 20 days after the service on the respondent of the petition, apply to the Court to set the petition aside on any of the following grounds:

(a) that the petitioner is not qualified to file a petition;

(b) that the petition was not filed within the prescribed time;

(c) that the deposit has not been made as provided in section 187;

(d) that the petition does not on its face disclose sufficient grounds or facts to have the election declared void;

(e) that service of a copy of the petition has not been made on the respondent as prescribed by this Part, and the Court, if satisfied that the application is well founded, may order the petition to be set aside or, if it is not so satisfied, the Court may dismiss the application.

Application by respondent for further particulars

191(1) Evidence need not be stated in the petition, but the respondent may

(a) within 20 days after service on the respondent of the petition, unless the respondent applies to set aside the petition, and

(b) if the respondent applies to set aside the petition, within 5 days after the application is disposed of if the application is dismissed,

apply to the Court for particulars or for further and better particulars of the facts and grounds relied on to sustain the prayer of the petition.

(2) On hearing an application under subsection (1), the Court

(a) may direct any particulars that may be necessary to prevent surprise and to ensure a fair and effectual trial,

(b) may prescribe the time within which the particulars must be delivered, and

(c) may direct that in case the particulars are not delivered as prescribed, the petitioner will not be at liberty to give any evidence at the trial with respect to facts and grounds of which particulars are ordered and not delivered.

RSA 1980 cE-2 s187

Time and place of trial

192(1) At any time after the petition is at issue the petitioner may apply to the Court to appoint a time and place for the trial of the petition, and the Court, on being satisfied that the petition is at issue, shall appoint a time and place for trial.

(2) A petition is at issue when all other orders on applications under sections 190 and 191 have been made, whether granting or refusing the applications, or if no applications have been made when the time for making those applications has expired.

Application to dismiss petition

193 If the petitioner does not within one month after the petition is at issue apply to the Court to appoint a time and place for the trial of the petition, the respondent may apply to the Court to dismiss the petition, and the Court may either dismiss the petition or appoint a time and place for the trial of the petition.

Rules of Court apply

194 The petition and all proceedings under it is deemed to be a cause in the Court and all the provisions of the Alberta Rules of Court insofar as they are applicable and not inconsistent with the provisions of this Part, including the tariff of costs for clerks, sheriffs, civil enforcement agencies, civil enforcement bailiffs, solicitors and counsel and interpreters, apply to the petition and proceedings.

Report to Chief Electoral Officer

195(1) The judge who tries the petition shall forthwith on the expiration of 14 days after the filing of the judge's directions for judgment, unless

(a) a notice of appeal, and

(b) an order of a judge staying the proceedings

has before the expiration of 14 days been filed in the clerk's office, make and forward to the Chief Electoral Officer a report of the judge's judgment including the judge's reasons.

(2) If the judgment contains findings that the respondent was unduly returned or elected,

(a) the election in which the respondent was a candidate is void on the receipt of the judge's report by the Chief Electoral Officer, and

(b) the Chief Electoral Officer shall inform the Lieutenant Governor in Council of the report.

#### Withdrawal from proceedings

196(1) The petitioner may at any time withdraw the petitioner's petition by

(a) filing with the clerk a statement in writing that the petitioner withdraws it, and

(b) serving the respondent with a notice of withdrawal, and in that case the Court shall on application order the petitioner to pay the respondent's costs of and incidental to the petition and the proceedings under it.

(2) The respondent may at any time withdraw any statement of objections by

(a) filing with the clerk a written statement that the respondent withdraws it, and

(b) serving the petitioner with a notice of withdrawal, and in that case the Court shall on application order the respondent to pay the petitioner's costs of and incidental to that statement.

#### Admission of undue election

197(1) The respondent may at any time admit that the respondent was unduly returned or elected by filing with the clerk a statement in writing admitting that fact and consenting to the entry of a judgment declaratory of that fact and by serving the petitioner with a notice that the statement has been filed.

(2) If a statement is filed under subsection (1), the petitioner may enter a formal judgment declaring the election void, and if the petitioner so desires directing the respondent to pay the petitioner's costs of and incidental to the petition, and on the judgment being entered, the Court shall send a report of the facts to the Chief Electoral Officer, and on the receipt of it by the Chief Electoral Officer, the election is void and a writ of election shall issue to fill the vacancy so created.

#### Costs

198(1) Except when otherwise provided by this Part, the costs of the petition and all matters incidental to it and arising out of it are to be dealt with in the same manner as in any ordinary civil matter before the Court.

(2) If the judge at any time orders costs to be paid by the petitioner, the judge may, when the petition and all matters arising out of it have been finally determined and disposed of, order the costs to be paid out of the money deposited by the petitioner on filing the petition, but nothing in this subsection is to be construed as preventing the respondent from proceeding at any time to recover any costs that may have been awarded to the respondent according to the ordinary practice of the Court.

#### Appeals

199(1) An appeal lies to the Court of Appeal from any order, direction or determination of the judge and from any judgment

entered in pursuance of it, and the appeal and all proceedings relating to it shall be had and taken, and the Court of Appeal shall, subject to this Part, deal with the appeal in the same manner as appeals in civil matters from the Court of Queen's Bench.

(2) If the appeal is from an order or determination of a judge, other than the judgment entered on the trial of petition, the notice of appeal shall be filed and served within 10 days from the entry of the judgment or order and it does not operate as a stay of proceedings unless so ordered by the judge.

(3) If a judge orders a stay of proceedings under subsection (2), the judge may do so on any terms the judge thinks just, and the judge may in making the order, or afterwards by separate order, fix the time for doing any act required or authorized by this Part to be done, the time for doing which has been fixed without reference to an appeal, and the judge or any other judge may for reasonable cause at any time set aside or modify any stay of proceedings that has been ordered under this section.

(4) If the appeal is from any finding, determination or judgment under section 195 or 197, the appellant shall file and serve the appellant's notice of appeal within 14 days after the filing of the directions for judgment and shall, before the expiration of that period, apply ex parte to the judge for a stay of proceedings, and the judge on being satisfied that the notice of appeal has been duly given shall make an order staying proceedings.

(5) After a stay of proceedings has been made, the appeal shall proceed and be dealt with in the same manner and is subject to the same rules as an ordinary appeal in a civil action.

(6) The costs of the appeal shall be dealt with in the same manner as in any ordinary civil appeal before the Court of Appeal.

Report of judgment on appeal

200 On judgment being given by the Court of Appeal, the presiding judge shall forthwith send to the Chief Electoral Officer

(a) a report of the judgment and with it a copy of all reasons for judgment given by any member of the Court of Appeal, and

(b) a copy of the reasons of the trial judge for the judgment appealed from and on the receipt by the Chief Electoral Officer of the report, the same consequences follow and the same acts shall be done as on the receipt of a report of a judge under section 195.

No count of ballots by judge

201 Nothing in this Part shall be construed to authorize a judge to count or recount the ballots cast at any election, and the count of ballots or the recount, if any, under Part 4 is conclusive.

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

### **Part 2**

#### **Registration**

##### **Qualifications for registration**

**6(1)** No political party and no person acting for a political party may accept contributions for the political party or for any constituency association of that party unless the political party is registered under this Act.

**(2)** Any political party that

(a) held a minimum of 3 seats in the Legislative Assembly following the most recent election,

(b) endorsed candidates nominated in at least 50% of the electoral divisions in the most recent general election,  
(c) endorses candidates in at least 50% of the electoral divisions following the issue of a writ of election for a general election, or  
(d) at any time, other than during a campaign period, provides the Chief Electoral Officer with the names, addresses and signatures of persons who  
(i) represent 0.3% of the number of electors eligible to vote at the last general election,

(ii) are currently eligible to vote in an election, and  
(iii) request the registration of that political party,

is, subject to subsection (3), qualified for registration in the register of political parties.

(3) A political party shall not be registered under this Act unless the Chief Electoral Officer is satisfied that prior to filing an application for registration the party has established a non-profit corporation or trust as a foundation for the purposes of receiving and managing the assets, except the premises, equipment, supplies and other such property required for the administration of the affairs of the party, held by the political party immediately prior to filing the application.

(4) The assets of a foundation established under subsection (3) shall consist of funds either on deposit with a financial institution or invested in accordance with the Trustee Act.

(5) No funds or other property may be received by or transferred to a foundation after the filing of an application for registration of the political party that established the foundation except for interest on the funds on deposit or the income from investments referred to in subsection (4).

(6) Each foundation shall file with the Chief Electoral Officer on or before April 1 in each year a report of the expenditures of that foundation during the previous year.

**Registration of political parties 7(1)** The Chief Electoral Officer shall maintain a register of political parties and, subject to this section, shall register in it any political party that is qualified to be registered and that files with the Chief Electoral Officer an application for registration setting out

- (a) the full name of the political party;
- (b) the political party name or the abbreviation of it to be shown in election documents;
- (c) the name of the leader of the political party;
- (d) the address of the place or places where records of the political party are maintained and of the place to which communications may be addressed;
- (e) the names of the principal officers of the political party;
- (f) the name of the chief financial officer of the political party;
- (g) the name and address of the financial institutions to be used by the political party as the depositories for
- (h) all contributions made to that political party;
- (i) the names of the political party's signing officers responsible for each depository referred to in clause (g);

an indication of the provision of section 6(2) under which the political party qualified for registration;  
a statement of the assets and liabilities of the political party as of a date not earlier than 90 days prior to the date of its application for registration attested to by its chief financial officer.

(2) On receipt of an application for registration of a political party, the Chief Electoral Officer shall examine the application and determine if the political party is entitled to be registered and

- (a) if the political party is entitled to be registered, enter it in the register of political parties and so inform the political party, or
  - (b) if the political party is not entitled to be registered, so inform the political party with written reasons for the determination.
- (2.1) The Chief Electoral Officer may refuse to register a political party that proposes to be qualified under section 6(2)(d) if the information provided under that clause is submitted to the Chief Electoral Officer less than 60 days before the start of a campaign period.
- (3) The Chief Electoral Officer shall not register a political party if, in the Chief Electoral Officer's opinion,
- (a) the name or the abbreviation of the name of the applying party so nearly resembles the name or abbreviation of the name of a registered party as to be likely to be confused with the name or abbreviation of that registered party,
    - (a.1) the proposed name was the name of a registered political party whose registration was cancelled or whose name was changed since the last general election, or
    - (b) the proposed name or abbreviation is unacceptable to the Chief Electoral Officer for any other reason.

## Service Alberta

Structure of government:

The provincial government is similar in structure to the federal government. One major difference is the lack of a senate – all provincial legislation is approved by the Lieutenant Governor, Alberta's representative of the Queen.

Alberta's government is made up of the Legislative Assembly, with elected officials known as Members of the Legislative Assembly (MLAs). The province's leader is known as the Premier. Like the federal Prime Minister, this position is awarded to the leader of the political party with the most seats in the Legislature.

Key decisions are made by Alberta's cabinet, chaired by the Premier and comprised of MLAs from the political party with the majority of seats in the Legislative Assembly.

## Proposed Electoral Division Areas, Boundaries, and Names for Alberta

### THE LAW

The *Act* directs the Commission to divide the province into 87 electoral divisions, with a population within 25% of the provincial average, in a way that will ensure effective representation for Albertans.

The *Act* provides as follows:

13 The Commission shall divide Alberta into 87 proposed electoral divisions.

RSA 2000 cE-3 s13;2009 c19 s4

15(1) The population of a proposed electoral division must not be more than 25% above nor more than 25% below the average population of all the proposed electoral divisions.

2

To assist in ensuring effective representation, the *Act* also provides that up to four special consideration electoral divisions may have populations as much as 50% below the provincial average:

15(2) Notwithstanding subsection (1), in the case of no more than 4 of the proposed electoral divisions, if the Commission is of the opinion that at least 3 of the following criteria exist in a proposed electoral division, the proposed electoral division may have a population that is as much as 50% below the average population of all the proposed electoral divisions:

- a) the area of the proposed electoral division exceeds 20,000 square kilometres or the total surveyed area of the proposed electoral division exceeds 15,000 square kilometres;

- b) the distance from the Legislature Building in Edmonton to the nearest boundary of the proposed electoral division by the most direct highway route is more than 150 kilometres;
  - c) there is no town in the proposed electoral division that has a population exceeding 8,000 people;
  - d) the area of the proposed electoral division contains an Indian Reserve or a Metis Settlement;
  - e) the proposed electoral division has a portion of its boundary coterminous with a boundary of the Province of Alberta.
- (3) For the purpose of subsection (2)(c), The Municipality of Crowsnest Pass is not a town.

RSA 2000 cE-13 s15;2009 c19 s5

The *Act* also references the guarantee of effective representation found in the *Canadian Charter of Rights and Freedoms* and lists factors which must be considered.

14 In determining the area to be included in and in fixing the boundaries of the proposed electoral divisions, the Commission, subject to section 15, may take into consideration any factors it considers appropriate, but shall take into consideration

- (a) the requirement for effective representation as guaranteed by the *Canadian Charter of Rights and Freedoms*,
- (b) sparsity and density of population,
- (c) common community interests and community organizations, including those of Indian reserves and Metis settlements,
- (d) wherever possible, the existing community boundaries within the cities of Edmonton and Calgary,
- (e) wherever possible, the existing municipal boundaries,
- (f) the number of municipalities and other local authorities,
- (g) geographical features, including existing road systems, and
- (h) the desirability of understandable and clear boundaries.

1990 cE-4.01 s16;1993 c2 s12;1995 c10 s12

Section 3 of the *Canadian Charter of Rights and Freedoms* states: “Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.”

3

The leading Canadian judicial authority on the meaning of this section is the Supreme Court of Canada’s 1991 decision in the **Saskatchewan Reference** case. In the decision, Madame Justice McLachlin described the issue before the Court as a contest between two competing values – equality of voting power and effective representation.

She stated:

What are the conditions of effective representation? The first is relative parity of voting power. A system which dilutes one citizen’s vote unduly as compared with another citizen’s vote runs the risk of providing inadequate representation to the citizen whose vote is diluted.

She concluded that: “the purpose of the right to vote enshrined in s. 3 of the *Charter* is not equality of voting power *per se*, but the right to ‘effective representation’.”

She stated:

Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. These are but examples of considerations which may justify departure from absolute voter parity in the pursuit of more effective representation; the list is not closed.

**In summary**, the principles of effective representation seem to the Commission to be as follows:

1. Relative parity of voting power.
2. The tradition in Canada is “effective representation,” not absolute parity as in the U.S.

3. The process of achieving effective representation may involve diluting the political force of some votes but not unduly and not without reason.
4. The balancing of these interests is a delicate one, which involves an examination in depth of the social history, geography and demography of communities in every sense of the word.

### **3. Laws and regulations on electoral finance**

#### **Main Research Findings:**

##### **Income Data:**

In 2010, the Alberta per capita income is \$70,826 (Source: Statistics Canada); in 1999 the Alberta top 20% earned 14.5 times more than the lowest 20% (Source: Penbina.org); in 2008, 32.4% of Alberta families total revenue is between \$0 and \$39,999, and the 42.1% of Alberta families total revenue is \$80,000 or more (Source: Statistics Canada); in 2011 Alberta has the fastest growing gap between rich and poor in Canada; the riches 1% in Alberta has as much wealth as the poorest 53% combined. (Source: albertaviews; study by sociologist John Myles).

##### **Electoral Finance Transparency:**

The Chief Electoral Officer may examine all financial statements and affairs of all political candidates, election campaigns and registered third parties. (Source: Election Finances and Contributions Disclosure Act, Article 4).

All records must be maintained for a period of at least three years. (Source: Election Finances and Contributions Disclosure Act, Article 10.1).

All documents filed with the Chief Electoral Officer are public records and available upon request during normal business hours. (Source: Election Finances and Contributions Disclosure Act, Article 11).

Any campaign funds not used are held in trust, to be used during the next election. These funds may be transferred to the registered party that supported the candidates bid for election in the previous election. If the candidate is not nominated for the following election, he is to transfer these funds to the registered party or candidates that supported his bid in the previous election. If funds cannot be transferred, they are transferred to the Crown. (Source: Election Finances and Contributions Disclosure Act, Article 12).

All contributions must be deposited in the account registered with the Chief Electoral Officer. (Source: Election Finances and Contributions Disclosure Act, Article 14).

Every candidate, constituency association and political party must have a chief financial officer who is not eligible for election and is appointed prior to the party registering with the Chief Electoral Officer. Contributions may only be accepted by the chief financial officer or another person who is deemed authorized to accept contributions, according to the records of the Chief Electoral Officer. (Source: Election Finances and Contributions Disclosure Act, Article 29, 31).

A third party must register if it has or plans to incur expenses of \$1000 or more, or makes advertising contributions of \$1000 or more. (Source: Election Finances and Contributions Disclosure Act, Article 9.1).

### **Electoral Donations/Contribution to Candidates and Parties:**

No Party or Candidate may accept contributions unless they are registered. Requirements: must be non-profit, funds must be deposited within a financial institution in a registered account, must file a report of contributions and expenditures at the end of each tax year (before April 1). (Source: Election Finances and Contributions Disclosure Act, Article 6).

No contributions to registered parties, constituency associations, and candidates from non-Alberta corporations and trade unions, public post-secondary institutions, prohibited corporations, school boards, Metis settlements, municipalities, and provincial corporations. (Source: Election Finances and Contributions Disclosure Act, Definition of prohibited corporation).

No contribution of funds may be made if said funds do not belong to the contributor or originate out of province. During a campaign period, a provincial party may accept a maximum \$150 per candidate from a registered federal political party. (Source: Election Finances and Contributions Disclosure Act, Articles 34, 35, 36).

### **Electoral Caps on Donations/Contributions to Candidates and Parties:**

“In any year” contributions may not exceed \$15000 for a registered party and \$1000 for a registered constituency association (only during a campaign period) and \$5000 in aggregate for registered constituency associations of each registered party. (Source: Election Finances and Contributions Disclosure Act, Article 17).

“In any campaign period”, contributions may not exceed \$30000 to registered parties less any contributions made that calendar year, and \$2000 to any registered candidates (only during a campaign period) and \$10000 in the aggregate to registered candidates of each registered party. (Source: Election Finances and Contributions Disclosure Act, Article 17).

Registered candidates own contributions to their own campaigns are subject to the contribution limits to registered candidates. (\$2000 limit). (Source: Election Finances and Contributions Disclosure Act, Article 17).

Contributions to a candidate may only be made during an election period. (Source: Election Finances and Contributions Disclosure Act, Article 17).

No party or candidate may knowingly accept contributions greater than these limits. (Source: Election Finances and Contributions Disclosure Act, Article 19).

Goods, services or gifts that do not exceed \$50 are not considered contributions, and are not to be transferred, but are recorded under the gross amount. (Source: Election Finances and Contributions Disclosure Act, Article 12).

Anonymous contributions are not allowed in excess of \$50. Those in excess must be returned to the contributor. If this cannot happen, it must be paid into the general revenue fund through the Chief Electoral Officer. (Source: Election Finances and Contributions Disclosure Act, Article 21.1).

Contributions other than money must be valued at market value at the time of the election. (Source: Election Finances and Contributions Disclosure Act, Article 44.31).

### **Campaign Expenditure:**

There are no electoral expenditure limits on registered candidates and parties. (Source: FDA researchers could find no Alberta legislation which placed direct limits on electoral expenditures). (In contrast, the Canadian federal electoral system has candidate expenditure limits on each constituency based on location and size of population, and expenditures limits on political parties based on the number of candidates endorsed by each party. (Source: FDA Electoral Fairness Audit of Canada, Electoral Finance).

There are no provincial subsidies of candidates and parties, and third-parties. (Source: FDA researchers could find no legislation on public subsidies).

### **Third-party Expenditure:**

Those who may not register as a third party are: individuals that are not permanent residents of Alberta; corporations which do not carry out business in Alberta; registered charities; prohibited corporations; and trade unions or organized labor groups not defined by the Election Finances and Contributions Disclosure Act (Source: Election Finances and Contributions Disclosure Act, Article 9.1).

No advertising contribution may be made or used unless it is by someone registered as a third party and subject to the same limits. (Source: Election Finances and Contributions Disclosure Act, Article 44.2).

Third party expenditure is limited to \$15,000 in one calendar year and \$30,000 in year of an election less any expenditure made that year. (Source: Election Finances and Contributions Disclosure Act, Article 44.2(3)).

There are no provincial subsidies of candidates and parties, and third-parties. (Source: FDA researchers could find no legislation on public subsidies).

## Legislative Process:

It is a corrupt practice to offer money, an office, any gift of valuable consideration, employment, or a loan of any kind in exchange for a vote or promise of a vote, or as a reward for declining to vote. (Source: Election Act, Article 172).

Court may order the parties to bear their own costs for the appeal and/or recount. Depending on the situation, costs may be paid by the Crown in right of Alberta. (Source: Election Act, Article 148.1).

Finances Act does not apply to leadership conventions within political parties. (Source: Election Finances and Contributions Disclosure Act, Article 2).

Alberta has comprehensive laws and regulations on the enforcement of the Alberta Election Act. There are established fines and persecution through the Provincial Courts. The enforcement covers the offenses/violations to the Election Act and electoral corruption. However, the Chief Electoral Officer is only person who has the power to proceed with prosecution under the Election Act. (Source: Election Act, Article 163.1 (1)). (Source: Election Act, Articles 154-184).

## Research Excerpts:

### Alberta Election Act

**57** A person is prohibited from being nominated as a candidate in an election if

- (a) the Speaker has laid a report before the Assembly pursuant to section 44(1) of the *Election Finances and Contributions Disclosure Act*,
- (b) that person was the registered candidate or the chief financial officer of the registered candidate referred to in the report,
- (c) the Court did not dispense with compliance with section 43(1) of that Act by an order under section 44(3) of that Act, and
- (d) nomination day for the election occurs within
  - (i) the 8-year period following the day on which the Speaker laid the report before the Assembly, or
  - (ii) where the financial statement has been filed with the Chief Electoral Officer, the 5-year period following the day of filing,

whichever period expires first.

**148.1(1)** If a recount is conducted or an appeal is heard under this Part, the court may direct

- (a) that the parties bear their own costs, or
- (b) that costs be paid to one or more of the parties by any or all of the following:
  - (i) (ii) (iii)

the applicant; one or more of the candidates; the Crown in right of Alberta.

**(2)** Costs must be determined in accordance with the *Alberta Rules of Court* and the practice and procedure of the Court of Queen's Bench or the Court of Appeal, as the case may be.

**162(1)** A person who, because an elector has voted or is about to vote, or for the purpose of influencing an elector to vote for or against a particular candidate or registered political party, causes or permits any

- (a) food or beverages, or

**102RSA 2000 Section 163** ELECTION ACT Chapter E-1

(b) money, ticket, voucher or order for the procurement of food or beverages, to be provided to an elector is guilty of an offence and liable to a fine of not more than \$500.

(2) The provision of food or beverages

(a) by or at the expense of a person to a meeting of electors at the person's usual place of residence, if that residence is a private home,

(b) to a meeting of electors, if the food or beverages are paid for by those electors, or

(c) by or on behalf of a candidate

(i) to the candidate's campaign workers or to any person acting as a scrutineer on behalf of the candidate, or

(ii) to persons who attend at the candidate's campaign headquarters,

is deemed not to be a contravention of subsection (1).

172 (1) A person commits a corrupt practice who, either personally or by any other person on the person's behalf, in order to induce an elector to vote or not to vote or to vote for or not to vote for a particular candidate

(a) offers, gives, lends or promises to offer, give or lend or promises to procure or attempts to procure any money or other valuable consideration to or for the elector or any person on behalf of the elector or to or for any other person,

(b) gives, procures or promises to give or procure or attempts to procure any office, position or employment to or for the elector or any other person, or

(c) does any act referred to in clause (a) or (b) in order to reward any person for having voted or not having voted.

(2) A person commits a corrupt practice who, either personally or by any other person on the person's behalf, solicits from any candidate or official agent

(a) a gift or loan of any money or other valuable consideration,

(b) a promise to give or lend money or other valuable consideration,

(c) any office, position or employment, or

(d) a promise to give or procure any office, position or employment, as a reward for agreeing to vote or not to vote, voting or not voting, agreeing to vote for a particular candidate or procuring or attempting to procure the election of the candidate.

(3) A person commits a corrupt practice who does one or more of the following:

(a) procures, promises to procure or attempts to procure the election of any candidate on, or as a result of, any act referred to in subsection (1);

(b) causes any money to be advanced or paid to any person with the intent that all or any portion of the money be expended on any corrupt practice;

(c) knowingly causes any money to be paid in settlement or repayment of money expended in whole or in part on any corrupt practice;

(d) before or during an election either personally or by any other person on the person's behalf, receives, agrees to receive or contracts for

(i) any money or other valuable consideration, whether by gift or loan, or

(ii) any office, position or employment, to or for the person or any other person because of or as a reward for voting or not voting, or for agreeing to vote or not to vote;

(e) after an election, either personally or by any other person on the person's behalf, receives any money or other valuable consideration because of and as a reward for

(i) having voted or not having voted at an election, or

(ii) having induced any other person to vote or not vote at an election;

(f) in order to induce a person

(i) to allow the person to be nominated as a candidate,

(ii) to refuse to allow the person to be nominated as a candidate, or

(iii) to withdraw the person's nomination as a candidate, either gives or procures, agrees to give or procure or attempts to procure any office, position or employment for any person.

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

- (l) “prohibited corporation” means
- (i) a Provincial corporation as defined in the *Financial Administration Act*, and includes a management body within the meaning of the *Alberta Housing Act* and a regional health authority and a subsidiary health corporation under the *Regional Health Authorities Act*,
  - (ii) a municipality,
  - (iii) a Metis settlement,
  - (iv) a school board under the *School Act*,
  - (v) a public post-secondary institution under the *Post-secondary Learning Act*,
  - (vi) any corporation that does not carry on business in Alberta,
  - (vi.1) a corporation associated with a corporation referred to in subclauses (i) to (vi) as determined under section 256 of the *Income Tax Act* (Canada), or
  - (vii) any corporation designated by the Lieutenant Governor in Council as a prohibited corporation;
- (m) “registered candidate” means a candidate registered under this Act;
- (n) “registered constituency association” means a constituency association registered under this Act;
- (o) “registered party” means a political party registered under this Act;
- (p) “trade union” means a trade union as defined by the *Labour Relations Code*, the *Public Service Employee Relations Act* or the *Canada Labour Code* (Canada), and that holds bargaining rights for employees in Alberta and for the purposes of this Act all locals in Alberta of a trade union are deemed to be one trade union.

#### **Application of Act**

**2** This Act does not apply to campaigns and conventions carried on or held in relation to the leadership of a registered party or in relation to constituency association nominations for endorsement of official party candidates.

**4(1)** The Chief Electoral Officer, in addition to the Chief Electoral

Officer’s other powers and duties under this Act, the *Election Act* and the *Senatorial Selection Act*,

- (a) may examine all financial statements required to be filed with the Chief Electoral Officer;
- (b) may inquire into or conduct periodic investigations of the financial affairs and records of
  - (i) registered parties and registered constituency associations,
  - (ii) registered candidates in relation to election campaigns, and
  - (iii) registered third parties in relation to election advertising under Part 6.1;
- (c) shall provide or approve forms for the purposes of this Act;
- (d) with respect to a candidate, shall publish a statement on the website of the Chief Electoral Officer within 30 days after the date on which the financial statement is required to be filed with the Chief Electoral Officer under section 43(2), which must include the name of any contributor who has contributed to the candidate an amount exceeding \$375 in the aggregate, and the actual amount contributed;
- (e) with respect to a third party, shall publish a statement on the website of the Chief Electoral Officer within 30 days after the date on which the election advertising report is

**Qualifications for registration 6(1)** No political party and no person acting for a political party may accept contributions for the political party or for any constituency association of that party unless the political party is registered under this Act.

**(2)** Any political party that (a) held a minimum of 3 seats in the Legislative Assembly

following the most recent election,

- (b) endorsed candidates nominated in at least 50% of the electoral divisions in the most recent general election,
- (c) endorses candidates in at least 50% of the electoral divisions following the issue of a writ of election for a general election, or
- (d) at any time, other than during a campaign period, provides the Chief Electoral Officer with the names, addresses and signatures of persons who
  - (i) represent 0.3% of the number of electors eligible to vote at the last general election,
  - (ii) are currently eligible to vote in an election, and (iii) request the registration of that political party,

is, subject to subsection (3), qualified for registration in the register of political parties.

**(3)** A political party shall not be registered under this Act unless the Chief Electoral Officer is satisfied that prior to filing an application for registration the party has established a non-profit corporation or trust as a foundation for the purposes of receiving and managing the assets, except the premises, equipment, supplies and other such property required for the administration of the affairs of the party, held by the political party immediately prior to filing the application.

**(4)** The assets of a foundation established under subsection (3) shall consist of funds either on deposit with a financial institution or invested in accordance with the *Trustee Act*.

**(5)** No funds or other property may be received by or transferred to a foundation after the filing of an application for registration of the political party that established the foundation except for interest on the funds on deposit or the income from investments referred to in subsection (4).

**(6)** Each foundation shall file with the Chief Electoral Officer on or before April 1 in each year a report of the expenditures of that foundation during the previous year.

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

(a) when it has incurred expenses of \$1000 or plans to incur expenses of at least \$1000 for election advertising, or

(b) when it has accepted election advertising contributions of \$1000 or plans to accept election advertising contributions of at least \$1000.

**(2)** The Chief Electoral Officer shall maintain a register of third parties and, subject to this section, shall register in it any third party who is eligible to be registered and who files with the Chief Electoral Officer an application for registration setting out the following:

(a) the full name, address and telephone number

(i) if the third party is a person, of the person,

(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 in Alberta where records of the third party are maintained and of the place in Alberta where communications may be addressed;

(c) the name, address and telephone number of the chief financial officer responsible for the advertising account of the third party;

(d) the name and address of the financial institution to be used by the third party for its advertising account;

(e) the names of the signing authorities for the advertising account;

(f) any additional information required by the Chief Electoral Officer concerning an advertising account.

**(3)** 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 election advertising expenses.

**(4)** 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.

**(5)** The following are not eligible to be registered under this section:

(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 a trade union or employee organization as defined in this Act;
  - (d) a group where any member of the group is ineligible under clause (a), (b) or (c);
  - (e) a registered charity within the meaning of subsection 248(1) of the *Income Tax Act* (Canada);
  - (f) a prohibited corporation.
- (6) The Chief Electoral Officer shall, as soon as possible 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 applicant is accepted for registration, and
  - (c) in the case of a refusal to register, give reasons for the refusal.
- (7) 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, on receipt of the notice the Chief Electoral Officer shall vary the register of candidates accordingly.
- (8) A notice under subsection (7) may be sent by fax or electronic mail.

**Records 10.1** A registered party, registered constituency association, registered candidate and registered third party shall retain all of the records of that registered party, registered constituency association, registered candidate or registered third party for a period of 3 years following the date on which the financial statements required under this Act for the period to which the records relate are required to be filed.

**Access to documents 11(1)** All documents filed with the Chief Electoral Officer are public records and may on request during normal office hours be inspected at the offices of the Chief Electoral Officer.

(2) Copies of any document referred to in subsection (1) may be obtained on payment for the preparation of the copies at the rates that the Chief Electoral Officer may determine.

### Part 3 Contributions

**Continuing use of campaign funds 12(1)** Any campaign funds held by a candidate at the end of a campaign period that include contributions received by the candidate for the purpose of the candidate's campaign shall be held in trust to be expended for the candidate's candidacy at the next election.

(3) Funds held in trust under subsection (1) may, at the option of the candidate, be transferred or paid from time to time to

- (a) the registered party that proposed or supported the candidate's registration at the previous election,
- (b) the registered constituency associations of the registered party that proposed or supported the candidate's registration at the previous election,
- (c) the registered candidates of the registered party that proposed or supported the candidate's registration at the previous election, or
- (d) the Crown in right of Alberta if the funds cannot be transferred in accordance with clause (a), (b) or (c).

(4) If a candidate is not nominated or does not declare the candidate's candidacy as an independent candidate for the next election, the candidate shall, not later than 7 days after the day fixed for nominations, transfer or pay the amount held by the candidate in trust pursuant to subsection (1) to

- (a) the registered party that proposed or supported the candidate's registration at the previous election,
- (b) the registered constituency associations of the registered party that proposed or supported the candidate's registration at the previous election, or
- (c) the registered candidates of the registered party that proposed or supported the candidate's registration at the previous election,

at the option of the candidate, or to the Crown in right of Alberta if the funds cannot be transferred in accordance with clause (a), (b) or (c).

(5) Notwithstanding subsections (3) and (4), funds held in trust under subsection (1) in respect of a candidate under the *Senatorial Selection Act* may not be transferred or paid to a registered constituency association.

(2) Money or goods provided by any person, corporation, trade union or employee organization that do not exceed \$50 in the aggregate are not a contribution for the purposes of this Act but shall be recorded as to

the gross amount by the chief financial officer of the recipient unless the donor specifically requests that the amount be considered a contribution.

#### **Deposit of contributions**

**14(1)** All financial contributions accepted by or on behalf of a registered party, registered constituency association or registered candidate shall be paid into an appropriate depository on record with the Chief Electoral Officer.

**(2)** When any contribution of other than money, accepted by or on behalf of a registered party, registered constituency association or registered candidate, is converted at any time into money, that amount shall be paid into an appropriate depository on record with the Chief Electoral Officer.

#### **Limitation on contributions**

**17(0.1)** This section does not apply to an election under the *Senatorial Selection Act*.

**(1)** Contributions by any person, corporation, trade union or employee organization to registered parties, registered constituency associations or registered candidates shall not exceed

(a) in any year,

(i) \$15 000 to each registered party, and

(ii) \$1000 to any registered constituency association, and \$5000 in the aggregate to the registered constituency associations of each registered party, and

(b) in any campaign period,

(i) \$30 000 to each registered party less any amount contributed to the party in that calendar year under clause (a)(i), and

(ii) \$2000 to any registered candidate, and \$10 000 in the aggregate to the registered candidates of each registered party.

**(2)** If writs for 2 or more by-elections bear the same date and provide for the same polling day, all the by-elections are deemed to be one election for the purposes of subsection (1)(b).

**(3)** Contributions may be made to a registered constituency association at any time except during a campaign period.

**(4)** No contributions may be made to a candidate except during a campaign period.

**(5)** Any money paid during a campaign period by a candidate out of the candidate's own funds for the purposes of the candidate's campaign, including the payment of the candidate's deposit under section 61(1)(e) of the *Election Act*,

(a) is a contribution for the purposes of this Act, and

(b) shall be paid into a depository of the candidate on record with the Chief Electoral Officer.

**Excessive contributions 19(1)** No registered party, registered constituency association or registered candidate and no person on its or the candidate's behalf shall knowingly accept any contributions in excess of the limits imposed by section 17.

**(2)** If the chief financial officer learns that a contribution was accepted by or on behalf of the registered party, registered constituency association or registered candidate for whom the chief financial officer acts in excess of the limits imposed by section 17, the chief financial officer shall, within 30 days after learning of it, advise the Chief Electoral Officer in writing of the fact and circumstances.

**Anonymous and unauthorized contributions 21.1(1)** Any anonymous contribution in excess of \$50 and any

contribution or portion of a contribution made in contravention of this Act accepted by a registered party, registered constituency association or registered candidate must not be used or expended, and the registered party, registered constituency association or registered candidate

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

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

#### **Fund-raising functions**

**23(1)** In this section, "fund-raising function" includes any social function held for the purpose of raising funds for the registered party, registered constituency association or registered candidate by whom or on whose behalf the function is held.

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

(3) If an individual charge by the sale of tickets or otherwise is made for a fund-raising function held by or on behalf of a registered party, registered constituency association or registered candidate, then, for the purposes of this Act,

(a) if the individual charge is \$50 or less, it shall not be considered as a contribution unless the person who pays the charge specifically requests that it be so considered, in which case 1/2 shall be allowed for expenses and 1/2 shall be considered as a contribution to the registered party, registered constituency association or registered candidate, as the case may be, and

(b) if the individual charge is more than \$50, \$25 shall be allowed for expenses and the balance shall be considered as a contribution to the registered party, registered constituency association or registered candidate, as the case may be.

(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 contribution to the registered party, registered

**General collections 24** When, at a meeting held on behalf of or in relation to the affairs of a registered candidate, registered party or registered constituency association, 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 shall be considered not to be contributions for the purposes of this Act but shall be recorded as to the gross amount by the chief financial officer of the candidate, political party or constituency association, as the case may be.

**Annual membership fees 25** An annual membership fee paid for membership in a political party or in a constituency association of that party, or in both, is not a contribution for the purposes of this Act if

(a) the fee or, when a fee is paid to the party and to a constituency association of that party, the total of those fees, does not exceed \$50, and

(b) the political party and constituency association each maintain a membership list indicating the amount of the fee or fees paid by each member that is allocated to the political party or constituency association, as the case may be,

but if the fee or total of those fees exceeds \$50, the amount of the excess shall be considered as a contribution.

#### **Part 4**

##### **Collection of Contributions**

**Chief financial officers 29(1)** Every political party, constituency association and candidate shall, before filing its application for registration with the Chief Electoral Officer, appoint a chief financial officer.

(2) When a chief financial officer appointed pursuant to subsection (1) ceases for any reason to hold that office, the political party, constituency association or candidate, as the case may be, shall forthwith appoint another chief financial officer.

(3) A candidate may not be appointed as chief financial officer for a candidate under this section.

### **Acceptance of contributions**

**31** No contribution shall be accepted by a registered candidate otherwise than through the candidate's chief financial officer or other person on record with the Chief Electoral Officer as authorized to accept contributions.

**Contributions not belonging to contributor 34(1)** Subject to section 26, no person, corporation, trade union or employee organization shall contribute to any registered party, registered constituency association or registered candidate funds not actually belonging to that person, corporation, trade union or employee organization, or any funds that have been given or furnished to the person, corporation, trade union or employee organization by any persons or groups of persons or by a corporation, trade union or employee organization for the purpose of making a contribution of those funds to that registered party, registered constituency association or registered candidate.

(2) No registered party, registered constituency association or registered candidate and no person on its or the candidate's behalf shall solicit or knowingly accept any contribution contrary to subsection (1).

(3) If the chief financial officer learns that a contribution received by or on behalf of the registered party, registered constituency association or registered candidate for whom the chief financial officer acts was made contrary to subsection (1), the chief financial officer shall, within 30 days after learning that the contribution was made contrary to subsection (1), advise the Chief Electoral Officer in writing of the fact and circumstances.

**Out-of-province contributions 35(1)** No registered party, registered constituency association or registered candidate shall, directly or indirectly,

(a) knowingly solicit or accept contributions from any person ordinarily resident outside Alberta, from any prohibited corporation or from a trade union or employee organization other than a trade union or employee organization as defined in this Act, or

(b) contribute or transfer funds to any political party, constituency association or candidate not registered under this Act, except that during an election under the *Canada Elections Act* (Canada) a registered party may transfer to a federal political party registered under the *Canada Elections Act* (Canada) an amount not exceeding, in the aggregate, \$150 for each candidate at a federal election in a federal electoral district in Alberta who is endorsed as a candidate by that federal party.

(2) In subsection (1), "during an election" has the meaning given to it in the *Canada Elections Act* (Canada).

(3) Notwithstanding subsection (1)(b), a registered party may not contribute or transfer to a federal political party any funds that were contributed in respect of an election under the *Senatorial Selection Act*.

(4) If the chief financial officer learns that a contribution was accepted by or on behalf of the political party, constituency association or candidate for whom the chief financial officer acts from a person normally resident outside Alberta or from a prohibited corporation, or from a trade union or employee organization other than a trade union or employee organization as defined in this Act, the chief financial officer shall, within 30 days after learning of it, advise the Chief Electoral Officer in writing of the fact and circumstances.

### **Funds from federal parties**

**36** No registered party, registered constituency association or registered candidate may accept funds from a federal political party, electoral district association or registered candidate registered under the *Canada Elections Act* (Canada), except that during a campaign period a registered party may accept from a registered federal political party an amount not exceeding, in the aggregate, \$150 for each registered candidate endorsed by that registered party and those funds are not contributions for the purposes of this Act but must be recorded as to source and deposited in an appropriate depository on record with the Chief Electoral Officer.

### **Limits on contributions**

**44.2(1)** No election advertising contribution shall be made by a person, corporation, trade union or employee organization to a third party or used to incur election advertising expenses unless

(a) the third party to whom the contribution is made is

registered under section 9.1, or

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

(2) No third party required to be registered under section 9.1 and no person acting for the third party required to be registered under section 9.1 shall accept election advertising contributions unless the third party is registered under section 9.1.

(3) Subject to subsection (5), election advertising contributions made by any person, corporation, trade union or employee organization to third parties shall not exceed, in the aggregate,

(a) \$15 000 in any calendar year in which there is not a general election, or

(b) \$30 000 in any calendar year in which there is a general election, less any amount contributed under clause (a).

(4) No third party and no person acting for a third party shall accept any election advertising contributions if the third party or person knows or ought to know that the amount would exceed the limit referred to in subsection (3).

(5) The following shall not make an election advertising contribution and no third party shall, directly or indirectly, knowingly accept an election advertising contribution from any of them:

(a) a person ordinarily resident outside Alberta;

(b) a prohibited corporation;

(c) a registered charity within the meaning of subsection 248(1) of the *Income Tax Act* (Canada);

(d) a trade union or employee organization that is not a trade union or employee organization, as the case may be, as defined in this Act.

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

(7) A third party shall not circumvent or attempt to circumvent a limit set out in this section in any manner, including splitting itself into 2 or more third parties.

## **4. Laws and regulations on voter influence**

### **Main Research Findings:**

#### **Campaign Period:**

The election campaign period is 28 days. (Source: Election Act, Article 38.1 (2) and 39).

#### **Blackout Period:**

There is no campaign blackout period. (Source: FDA could find no campaign blackout period in the Alberta legislation; this finding was confirmed by Elections Alberta on February 9, 2012).

There is a blackout on new surveys being released 24 hours before the Election Day. No new election survey results that have not been already released may be released during the 'blackout period' 24 hours before the election. (Source: Election Act, Article 135.4) (In Bolivia, election propaganda including polls and surveys are not allowed 48 hours prior to the Election Day. (Source: FDA Electoral Fairness Audit Report on Bolivia) In France, there is no commercial political advertisement 3 months prior to an election period; election propaganda during a campaign period must allow candidates adequate time to respond. (Source: FDA Electoral Fairness Audit Report on France). In Egypt (under Mubarak), polls and surveys are not allowed 7 days prior to the Election Day. (Source: FDA Electoral Fairness Audit Report on Egypt)).

Survey results previously released to the public prior to the 'blackout period' can be transmitted again to the public. (Source: Election Act, Article 135.4).

#### **Value of a Vote:**

An elector/voter has only one vote. (Source: Election Act, Article 110).

#### **Voter Protection:**

Polling booths must be arranged in such a way that the voter is screened from observation (Source: Election Act, Article 91).

All election officials must take an oath of secrecy and aid in maintaining the secrecy of voting. Any breach of secrecy must be reported to the Chief Electoral Officer (Source: Election Act, Article 93).

Electoral officers have the authority of a justice of the peace and are responsible for maintaining peace and order at the polling stations. They may request assistance of peace officers or any persons present to aid in maintaining peace and order (Source: Election Act, Article 94).

Immediately after a vote is cast, a record is made beside that voters name indicating that he has placed his vote (Source: Election Act, Article 103).

No one shall interfere or attempt to interfere with a voter or a voter's ballot, attempt to prevent a person from voting, attempt to obtain information regarding who a voter voted for while at a polling place, or enter the voter's booth while a voter is marking his ballot (Source: Election Act, Articles 105, 106).

You may not attempt to remove your ballot or anyone else's ballot from a polling place. The punishment for doing so is to forfeit the right to vote in the election (Source: Election Act, Article 107).

If an individual returns their ballot indicating that they do not wish to mark it, they have forfeited their right to vote in the election. Their ballot will be marked "declined" by the deputy returning officer, and the individual will leave the polling place (Source: Election Act, Article 107.1).

### **Voter Electoral Complaints:**

Voters have the right to make a legal petition against the election results or the election of a specific candidate. The petition may be filed with a Alberta judiciary centre within 30 days after election results are deemed published or if the matter pertains to eligibility of the candidate's nomination any time during the continuation of the Legislative Assembly. The petitioner must make a \$1000 deposit to cover fees of the respondent. Also, there is an appeals process for petitions. (Source: Election Act, Articles 185-201).

There is no process for voters to file electoral complaints during the election period. (Source: FDA researchers could no find process in Alberta Election Act.)

### **Voter Assistance:**

An interpreter may be provided by the returning officer if voter does not speak or understand English to translate and/or answer questions about voting procedure (Source: Election Act, Article 78).

Polling stations are open from 9:00 AM to 8:00 PM on both the advanced poll and on the polling day (Source: Election Act, Article 88).

Deputy returning officer must assist a voter who due to physical incapacity or inability to read requests assistance. The officer may mark the voter's ballot but only in the presence of a poll clerk. If the voter is blind and does not wish to be assisted, a blind voter template will be provided with instruction regarding its use. Also, if the voter is accompanied by a friend, the friend may assist the voter by marking the voter's ballot. The voter and friend will be required to take an oath before voting, and officer will record the type of assistance required, whether by friend or template. (Source: Election Act, Article 96).

Provided a treatment centre or supportive living facility houses at least 10 eligible voters, it must be contacted by a returning officer to decide whether a mobile polling station will be provided to the facility. If a mobile poll is to be provided, the number of said polls, their format, and fixed hours for their operation must be established. A deputy returning officer and poll clerk must be employed for each poll (Source: Election Act, Article 120).

### **Inclusion of Minorities:**

There are no laws and regulations which guarantees or supports political representation of minorities in the Legislative Assembly. (Source: FDA researchers).

### **Freedom of Speech and Assembly:**

Citizens have freedom of expression and assembly before, during, and after the election campaign period. (Source: Canadian Charter of Rights and Freedoms).

### **Voter Registration Requirements:**

Voters must be a Canadian citizen, at least 18 years of age, a resident of Alberta for at least 6 months as a date fixed by the Chief Electoral Officer, and ordinarily a resident in the electoral division and subdivision for which the name of the person will be included on the list of electors. (Source: Election Act, Article 16.)

### **Citizens Living Abroad:**

Citizens who live abroad may vote by special ballot. (Source: Election Act, Article 116).

### **Research Excerpts:**

#### **Election Act**

(3) The ordinary residence of an inmate who is an elector is the first of the following places for which the inmate knows the address:

- (a) his or her residence before being incarcerated;
- (b) the residence of his or her spouse or adult interdependent partner, a relative or a dependant of the inmate, a relative of his or her spouse or adult interdependent partner or a person with whom the inmate would live but for his or her incarceration;
- (c) the place of his or her arrest;
- (d) the last court where the inmate was convicted and sentenced.

**16** Subject to section 45, a person is eligible to have the person's name included on a list of electors if that person as of a date fixed by the Chief Electoral Officer

- (a) is a Canadian citizen,
- (b) is at least 18 years of age,
- (c) has been or will have been ordinarily resident in Alberta for at least 6 months as of that date, and
- (d) is ordinarily resident in the electoral division and subdivision for which that person is to have the person's name included on the list of electors.

**(2)** A list of electors, including a post-polling-day list of electors under section 19, may be used only as follows:  
by a registered political party or a registered constituency association, for communicating with electors, including for soliciting contributions and recruiting party members;  
by a member of the Legislative Assembly  
for carrying out the duties and functions of the member,  
in the case of a member of a registered political party, for soliciting contributions for the use of the registered political party or any constituency association of that party and recruiting party members, and  
in the case of a member who is not a member of a registered political party but who has endorsed a constituency association as the official association of the member, for soliciting contributions for the use of the constituency association;

**78(1)** An interpreter may be appointed in the prescribed form to translate questions and answers about voting procedures for persons not conversant in the English language.

**(2)** An interpreter shall be appointed

- (a) by a returning officer, or
- (b) by a deputy returning officer where the appointment is for one or more temporary periods during polling day.

**88(1)** Subject to subsection (3), polling places shall be open for the purpose of voting during the following hours only:

- (a) at an advance poll, from 9 a.m. to 8 p.m.;
- (b) at treatment centres and supportive living facilities where mobile polls are held, during the hours fixed by the returning officer;
- (c) at the taking of the poll on polling day, from 9 a.m. to 8 p.m.

**59**

**(2)** No voting shall be permitted before the opening of a polling place.

**(3)** At closing time the entrance to each polling place shall be closed, and only those persons who are inside the polling place at that time shall be permitted to vote after the closing time.

**91(1)** Each polling station shall contain one or more polling booths arranged so that when a voter is in the polling booth the voter is screened from observation and may mark the voter's ballot without interference.

**93(1)** All persons referred to in section 92(1) shall take the prescribed oath of secrecy before performing their duties under that section and shall aid in maintaining the secrecy of the voting.

**(2)** If an election officer suspects that any contravention of the law governing secrecy in relation to voting has occurred, the election officer shall as soon as possible advise the returning officer, who shall immediately notify the Chief Electoral Officer.

**94(1)** Every returning officer, supervisory deputy returning officer, registration officer and deputy returning officer, from the time that officer takes that officer's oath of office until completion of the duties of that office,

(a) is charged with preserving the peace at polling places, (b) is vested with all the powers of a justice of the peace, and (c) may

- (i) request the assistance of justices of the peace, peace officers or any persons present to aid that officer in maintaining peace and order at an election;
- (ii) repealed 2006 cP-3.5 s35;
- (iii) arrest or cause to be arrested and placed in the custody of a peace officer or other person anyone disturbing the peace or order at an election;
- (iv) cause an arrested person to be imprisoned on that officer's written order until a time not later than the close of a poll.

**(2)** When requested to do so under subsection (1)(c), a peace officer shall forthwith attend on and assist the person making the request in the performance of the person's powers under that subsection.

**(3)** No person shall in any manner (a) create a disturbance, or (b) disrupt the proceedings

at a polling place on polling day.

**Voter assistance**

**96(1)** The deputy returning officer, at the request of a voter who is unable to vote in the usual manner due to a physical incapacity or inability to read the ballot, shall

(a) assist the voter by marking the voter's ballot in the manner directed by the voter in the presence of the poll clerk, and

(b) if requested by the voter, place the ballot so marked in the ballot box.

**(2)** Repealed 2004 c23 s49.

**(3)** The deputy returning officer, in the case of a voter referred to in subsection (1), shall

(a) if the voter is accompanied by a friend,

(i) permit the friend to accompany the voter into a polling booth to mark the voter's ballot, and

(ii) if requested by the voter or the friend, place the ballot in the ballot box,

or

(b) if the voter is a blind voter and is not accompanied by a friend or does not wish to be assisted by the deputy returning officer,

(i) provide the voter with a Blind Voter Template in the prescribed form, and

(ii) instruct the voter in its use.

**(4)** A voter referred to in subsection (1) and the friend of such a voter, if assisting the voter to vote, shall both take the prescribed oath before voting.

**(5)** When a ballot has been marked pursuant to this section, the deputy returning officer or poll clerk shall enter in the poll book opposite the name of the voter and in the appropriate column either "voter assistance" or "template", as the case may be.

**103** Immediately after a voter's ballot is deposited in the ballot box the poll clerk shall enter in the poll book opposite the name of the voter and in the appropriate column a check mark or other annotation indicating that the voter has voted.

**105(1)** No person may

(a) interfere or attempt to interfere with a voter who is attempting to mark the voter's ballot,

(b) attempt to obtain any information at a polling place regarding which candidate a voter has voted for, is voting for or is about to vote for, or

(c) prevent or attempt to prevent a person from exercising the person's right to vote.

**70RSA 2000 Section 106**      **ELECTION ACT Chapter E-1**

**(2)** No person may communicate any information obtained at a polling place regarding which candidate a voter has voted for, is voting for or is about to vote for.

**106(1)** While a voter is in a polling booth for the purpose of marking the voter's ballot, no other person may, except as permitted in section 96, enter the polling booth or be in a position from which the person can see for whom the voter marks the voter's ballot.

**(2)** No person may directly or indirectly induce or attempt to induce a voter to show the voter's ballot after the voter has marked it so as to allow the name of the candidate for whom the voter has voted to be known.

**(3)** Except as provided in section 96, a voter shall not show the voter's ballot, after the voter has marked it, to any person so as to allow the name of the candidate for whom the voter voted to be known.

**(4)** A voter shall

- (a) vote without unnecessary delay, and
- (b) leave the polling place as soon as the voter's ballot has been placed in the ballot box.

**107(1)** A person who receives a ballot shall not take it out of the polling place.

**(2)** If a person contravenes subsection (1), the deputy returning officer shall make an entry in the poll book in the appropriate column to the effect that the person received a ballot but took it out of the polling place.

**(3)** A person who contravenes subsection (1) forfeits the right to vote in the election.

**107.1(1)** If a person returns the person's ballot indicating that the person does not wish to mark the ballot, the deputy returning officer shall immediately write the word "declined" on the ballot and place it in the required envelope to be sent to the returning officer.

**(2)** A person who returns a ballot under subsection (1)

(a) forfeits the right to vote in the election, and

(b) shall forthwith leave the polling place.

### **One vote only**

**110** An elector shall have one vote only.

**120(1)** Each returning officer shall, following receipt of a writ, determine if there are in the electoral division

(a) any treatment centres having not fewer than 10 in-patients who are electors, and

(b) any supportive living facilities having not fewer than 10 residents who are electors.

**(2)** If a returning officer determines that there are facilities as described in subsection (1), the returning officer shall, immediately after nomination day,

(a) determine, in consultation with an official of each supportive living facility, whether a mobile poll should be held at the facility,

(b) in consultation with an official of each supportive living facility where a poll is to be held and with an official of each treatment centre

(i) fix the hours on polling day when a mobile poll will operate at the facility, and

(ii) determine the number of mobile polls to be established within the facility and the format that each mobile poll is to take as either fixed location or bed-to-bed visitations, or both,

and

(c) appoint a deputy returning officer and poll clerk for each mobile poll so required.

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