

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

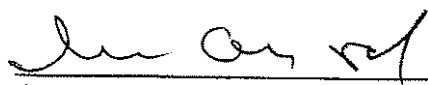
Order in Council No. 725 , Approved and Ordered OCT - 9 2008




Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the attached Electoral Reform Referendum 2009 Act Regulation is made.



Attorney General and
Minister Responsible for Multiculturalism



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Electoral Reform Referendum 2009 Act, SBC 2008, c. 9, s. 8

Other (specify):- _____

ELECTORAL REFORM REFERENDUM 2009 ACT REGULATION

Contents

PART 1 — DEFINITIONS AND APPLICATION OF OTHER ACTS GENERALLY

- 1 Definitions
- 2 Application of the *Election Act* generally
- 3 Application of the *Recall and Initiative Act* generally

PART 2 — FUNDING FOR GROUPS

- 4 Who may be the opponent or proponent group
- 5 How to apply to be the opponent or proponent group
- 6 Who may be a financial agent
- 7 Selection of opponent and proponent groups
- 8 Establishment of opponent and proponent groups
- 9 Duties of financial agents
- 10 Assistant financial agents
- 11 Changes in financial agent
- 12 Payments to opponent and proponent groups
- 13 How public money may be used
- 14 Repayment of unused public money
- 15 Misused public money
- 16 Reconsideration of repayment notice
- 17 Other funding
- 18 Rescission of designation of financial agent

PART 3 — CONDUCT OF REFERENDUM

- 19 Referendum proceedings
- 20 Referendum voting to be on an electoral district basis
- 21 Who may vote in the referendum
- 22 Where a person may vote in the referendum
- 23 Referendum ballots and voting
- 24 Other referendum voting materials
- 25 Information to be available
- 26 Rules for accepting and rejecting referendum ballots
- 27 Initial count proceedings
- 28 Final count proceedings
- 29 Referendum advertising

PART 4 — OFFENCES

- 30 Offences in relation to referendum

PART 1 — DEFINITIONS AND APPLICATION OF OTHER ACTS GENERALLY

Definitions

- 1 (1) In this regulation:
 - “**applicant**” means an applicant to be the opponent group or proponent group;
 - “**director**” in relation to an organization means
 - (a) an individual director of the organization, or

- (b) if there are no individual directors of the organization, the principal officers or principal members of the organization;

“election ballot” means a ballot under the *Election Act* for the general election;

“general election” means the general election required under the *Constitution Act* to be held in May 2009;

“public money” means money paid out under the authority of section 4 of the Act to be used for the purposes of opposing or supporting the single transferable vote electoral system, and includes, for all purposes including repayment of public money, any interest earned on the money;

“referendum” means the referendum required under the *Electoral Reform Referendum 2009 Act* to be held in conjunction with the general election;

“referendum advertising” means advertising used during the referendum campaign period to promote or oppose, directly or indirectly, a specific response in voting in the referendum, but does not include

- (a) the publication without charge of news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary in a bona fide periodical publication or a radio or television program,
- (b) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be a referendum,
- (c) the transmission of a document directly by a person or a group to their members, employees or shareholders, or
- (d) the transmission by an individual, on a non-commercial basis on the internet, or by telephone or text messaging, of his or her personal views respecting the referendum;

“referendum ballot” means a ballot for the referendum as described in section 23 [*referendum ballots and voting*];

“referendum campaign period” means, in relation to the referendum, the period beginning on February 1, 2009 and ending at the close of general voting for the referendum;

“referendum contribution” means a contribution within the meaning of “initiative petition contribution” under the *Recall and Initiative Act*, except that the contribution is made during the referendum campaign period and in relation to the referendum;

“referendum expense” means an expense within the meaning of “initiative petition expense” under the *Recall and Initiative Act*, except that the expense is made in relation to the referendum.

- (2) Subject to this regulation, the definitions in the *Election Act* apply to this regulation.

Application of the *Election Act* generally

- 2 (1) Subject to any modifications made by this regulation, the following provisions of the *Election Act* are adopted and apply to the referendum as if it were an election for a candidate in the general election:

- (a) section 1 [definitions];
 - (b) section 2 [time];
 - (c) section 34 [updating registration information];
 - (d) section 41 [registration in conjunction with voting];
 - (e) section 41.1 [registration in conjunction with voting if no identification documents];
 - (f) section 41.2 [challenge of registration];
 - (g) Part 6 [Voting];
 - (h) Part 7 [Counting of the Vote], other than the following:
 - (i) section 123 [rules for accepting and rejecting ballots];
 - (ii) section 124 [objections to the acceptance of a vote or the rejection of a ballot];
 - (iii) section 141 (1) (c) and (d) [candidates and candidates' agents may be present at judicial recount];
 - (iv) section 146 [return of the writ of election];
 - (v) section 147 [report of results of election by chief electoral officer];
 - (vi) section 148 [by-election if tie vote];
 - (i) Part 13 [General], other than section 278 [enforcement of election expenses penalties].
- (2) Sections 276 [investigations and audits by chief electoral officer] and 277 [complaints regarding contraventions] of the *Election Act* apply in relation to any matter that may constitute a contravention of the *Electoral Reform Referendum 2009 Act* or this regulation.
- (3) For the purpose of applying provisions of the *Election Act* to the referendum in accordance with this regulation, the expressions in that Act referred to in column 1 of the following table are to be read as references to the indicated expressions in column 2 of the table:

Column 1 Election Act expressions	Column 2 to be read as
campaign period	referendum campaign period
candidate	response to the referendum question
election	referendum
election advertising	referendum advertising
regulation	regulation under the <i>Election Act</i> or the <i>Electoral Reform Referendum 2009 Act</i>
this Act	the <i>Election Act</i> , the <i>Electoral Reform Referendum 2009 Act</i> or a regulation under the <i>Electoral Reform Referendum 2009 Act</i>

Application of the *Recall and Initiative Act* generally

- 3 For the purpose of applying provisions of the *Recall and Initiative Act* to the referendum in accordance with this regulation, the expressions in that Act referred to

in column 1 of the following table are to be read as references to the indicated expressions in column 2 of the table:

Column 1 Recall and Initiative Act expressions	Column 2 to be read as
authorized participant	the opponent group, the proponent group or both, as applicable
initiative petition contribution	referendum contribution
initiative petition expense	referendum expense
initiative petition period	referendum campaign period
initiative vote period	referendum campaign period
initiative petition	referendum
initiative vote	referendum
initiative advertising	referendum advertising
opponent	the opponent group or a member of the opponent group, as applicable
petition	referendum
proponent	the proponent group or a member of the proponent group, as applicable
regulation	regulation under the <i>Election Act</i> , the <i>Recall and Initiative Act</i> or the <i>Electoral Reform Referendum 2009 Act</i>
this Act	the <i>Election Act</i> , the <i>Recall and Initiative Act</i> , the <i>Electoral Reform Referendum 2009 Act</i> or a regulation under the <i>Electoral Reform Referendum 2009 Act</i>

PART 2 — FUNDING FOR GROUPS

Who may be the opponent or proponent group

- 4 (1) Subject to subsection (2), an organization is eligible to be the opponent group or proponent group if all of the following apply:
- (a) the organization is not for profit;
 - (b) the members and directors of the organization are not compensated for being members or directors of the organization;
 - (c) membership in the organization is voluntary and open to all;
 - (d) at least two-thirds of the directors of the organization have been residents of British Columbia for at least 6 months immediately before general voting day for the referendum.
- (2) An organization is not eligible if
- (a) the organization is a political party or a constituency association, whether or not the party or association is registered,
 - (b) any of the directors of the organization
 - (i) is a candidate in the general election, including an individual who intends to be a candidate in the general election,

- (ii) is an election official, voter registration official or member of the staff of the chief electoral officer, or
- (iii) has been convicted, on or after May 12, 2002, of an offence under the *Election Act*, the *Recall and Initiative Act*, the *Electoral Reform Referendum 2009 Act* or a regulation under any of those Acts, or
- (c) more than one-third of the members of the organization are not ordinarily residents of British Columbia.

How to apply to be the opponent or proponent group

- 5 (1) An organization that wishes to be the opponent group or proponent group must apply to the deputy attorney general in accordance with this section on or before December 1, 2008.
- (2) An application must
- (a) if the deputy attorney general specifies the form of the application, be in that form,
 - (b) include the name of the organization and, if different from the name of the organization, the proposed name of the opponent group or proponent group,
 - (c) include a statement of the organization's mandate or mission and, if applicable, a copy of the organization's constitution and bylaws,
 - (d) include the mailing address and telephone number to which notices and other communications under the Act may be delivered or made,
 - (e) include a list of the directors of the organization, including their names, addresses and titles,
 - (f) include the name of the proposed financial agent for the organization,
 - (g) include a statement that the applicant
 - (i) opposes or supports, as applicable, the single transferable vote electoral system, and
 - (ii) intends to use, in accordance with this regulation, any public money received under this regulation for the purposes of opposing or supporting, as applicable, the single transferable vote electoral system,
 - (h) include information respecting the matters set out in section 7 (2) [*selection of opponent and proponent groups*], and
 - (i) include a written statement, signed by 2 directors of the organization, that the information contained in the application is, to the best of their knowledge and belief, true and complete.
- (3) An application is not complete unless the individual who is proposed as financial agent files the following with the deputy attorney general on or before December 1, 2008:
- (a) his or her signed consent to act as financial agent if the organization that proposed the individual is approved to be the opponent group or proponent group, as applicable;
 - (b) his or her name, mailing address and telephone number;

- (c) an address to which, if the individual is designated, notices may be delivered to the financial agent or the opponent group or proponent group for whom he or she is acting as financial agent;
- (d) a signed statement that he or she is eligible to be a financial agent.

Who may be a financial agent

- 6 An individual is eligible to be a financial agent unless any of the following circumstances apply:
- (a) any of the circumstances set out in section 4 (2) (b) (i), (ii) or (iii) [*who may be the opponent or proponent group*];
 - (b) the individual is an undischarged bankrupt;
 - (c) on or after May 12, 2002, the individual has been disqualified from acting as a financial agent under section 53 [*effect of incurring expenses over initiative petition financing limit*], 56 [*failure to file initiative petition financing report*], 79 [*effect of incurring expenses over initiative vote financing limit*] or 82 [*failure to file initiative vote financing report*] of the *Recall and Initiative Act*;
 - (d) on or after May 12, 2002, the individual has been convicted, in or out of British Columbia, of an offence involving fraud;
 - (e) the individual has not been a resident of British Columbia for at least 6 months immediately before general voting day for the referendum;
 - (f) the individual does not have full capacity to enter into contracts;
 - (g) the individual is not 18 years or older on general voting day for the referendum;
 - (h) the individual is not a Canadian citizen;
 - (i) the individual's designation as a financial agent is rescinded under this regulation.

Selection of opponent and proponent groups

- 7 (1) As soon as practicable after December 1, 2008, the deputy attorney general must assess the applications received under section 5 [*how to apply to be the opponent or proponent group*].
- (2) An assessment under subsection (1) must, based on the information contained in the applications, take into account all of the following criteria:
- (a) the eligibility of the organization under section 4 [*who may be the opponent or proponent group*] to be the opponent group or proponent group;
 - (b) the eligibility of the proposed financial agent under section 6 [*who may be a financial agent*] to be a financial agent;
 - (c) the structure of the organization and the length of time for which it has been established;
 - (d) the commitment of the organization to continue meeting the criteria set out in section 4 (1);
 - (e) the experience of the organization or its directors in conducting public information campaigns;

- (f) the capacity of the organization to conduct a public information campaign across the province in relation to the referendum, including respecting
 - (i) the Westminster model of parliamentary government,
 - (ii) the current electoral system, and
 - (iii) the single transferable vote electoral system;
 - (g) the extent to which members of the organization are actively involved in delivering the mandate or mission of the organization.
- (3) The deputy attorney general may
 - (a) publish information respecting how the criteria set out in subsection (2) may be assessed, and
 - (b) request one or more applicants to provide further information in respect of how the organization or its directors meet the criteria set out in subsection (2).
 - (4) The deputy attorney general may approve as the opponent group one applicant that the deputy attorney general is satisfied best meets the criteria set out in subsection (2).
 - (5) The deputy attorney general may approve as the proponent group one applicant that the deputy attorney general is satisfied best meets the criteria set out in subsection (2).
 - (6) In giving approval under subsection (4) or (5), the deputy attorney general may approve the proposed name of the opponent group or proponent group, or require the approved group to use another name.

Establishment of opponent and proponent groups

- 8 An organization is established as the opponent group or proponent group for the purposes of the *Electoral Reform Referendum 2009 Act* when the deputy attorney general has done all of the following:
 - (a) give written notice to the organization approved under section 7 [*selection of opponent and proponent groups*] to be the opponent group and the organization approved under that section to be the proponent group
 - (i) that the organization has been approved as the opponent group or proponent group, as applicable,
 - (ii) that the individual proposed as the financial agent for the organization has the powers and duties of a financial agent, and
 - (iii) of the name the organization is required to use when acting as the opponent group or proponent group;
 - (b) forward to the chief electoral officer
 - (i) a copy of the notice provided under paragraph (a), and
 - (ii) the information received under section 5 [*how to apply to be the opponent or proponent group*] from each approved organization;
 - (c) publish the names of the opponent group, the proponent group and their financial agents.

Duties of financial agents

- 9** (1) Section 34 (1) [*general obligations of financial agent*] of the *Recall and Initiative Act* applies to financial agents for the purposes of the *Electoral Reform Referendum 2009 Act* except that, for the purposes of section 34 (1) (b) of the *Recall and Initiative Act*, public money received under this regulation must be
- (a) deposited in a separate account from income received from other sources, and
 - (b) maintained in the account until used or repaid in accordance with this regulation.
- (2) Financial agents must file financing reports with the chief electoral officer.
- (3) Division 5 [*Reporting*] of Part 4 of the *Recall and Initiative Act* is adopted and applies, for the purposes of financing reports under subsection (2) of this section, to the receipt and use of public money under this regulation and referendum contributions and referendum expenses referred to in section 17 [*other funding*] of this regulation, except that
- (a) despite section 50 (1) [*initiative petition financing report*] of the *Recall and Initiative Act*, financial agents must file a financing report within 90 days after the end of the referendum campaign period,
 - (b) the reference in section 50 (1) of the *Recall and Initiative Act* to the financial agent of the proponent must be read as a reference to the financial agent of the proponent group,
 - (c) section 50 (2) (a) of the *Recall and Initiative Act* does not apply and instead the financing report must include all incurred referendum expenses,
 - (d) for the purposes of section 50 (4) of the *Recall and Initiative Act*, if the chief electoral officer specifies a different method of accounting to be used for the purposes of preparing reports, that method is to be used instead of generally accepted accounting principles,
 - (e) for the purposes of section 50 (6) of the *Recall and Initiative Act*, the report must be available for one year after general voting day for the referendum, and
 - (f) sections 50 (7) and 51 (d) and (e) of the *Recall and Initiative Act* do not apply.

Assistant financial agents

- 10** (1) Subject to subsections (2) and (3), section 35 [*assistant financial agent*] of the *Recall and Initiative Act* applies to financial agents for the purposes of the *Electoral Reform Referendum 2009 Act*.
- (2) A financial agent may authorize an individual to act as an assistant financial agent only if the individual
- (a) is eligible under section 6 [*who may be a financial agent*] to be a financial agent, and
 - (b) files the following with the chief electoral officer:
 - (i) his or her signed consent to act as an assistant financial agent;
 - (ii) his or her name, mailing address and telephone number;

- (iii) a signed statement that he or she is eligible to be a financial agent.
- (3) The duties of a financial agent under sections 14 [*repayment of unused public money*], 15 [*misused public money*] and 17 (3) and (4) [*other funding*] of this regulation must not be delegated to an assistant financial agent.

Changes in financial agent

- 11**
- (1) If the chief electoral officer rescinds the designation of a financial agent under section 18 [*rescission of designation of financial agent*], or receives notice from an individual designated as a financial agent or a person acting on that individual's behalf that the individual is unable or unwilling to act as financial agent, the chief electoral officer may
 - (a) designate another individual as financial agent for the opponent group or proponent group on whose behalf the financial agent was acting, and
 - (b) establish a process for selecting that other individual.
 - (2) The chief electoral officer may designate another individual as financial agent for the opponent group or proponent group if the chief electoral officer receives
 - (a) from at least two-thirds of the directors of the organization notice that
 - (i) the proposed individual should be replaced, and
 - (ii) another named and eligible individual is willing and able to act as financial agent, and
 - (b) from the individual referred to in paragraph (a) (ii) of this section the consent and information required under section 5 (3) [*how to apply to be the opponent or proponent group*].
 - (3) If another individual is designated as a financial agent under this section, the former financial agent must immediately transfer to the newly designated financial agent all public money, other money and records required to be kept under this regulation.
 - (4) Despite no longer being a financial agent,
 - (a) whether an individual is designated as a new financial agent or not, the duties set out in section 14 (1) (c) [*repayment of unused public money*] and 15 [*misused public money*] continue to apply to a former financial agent in respect of matters related to the period when that individual was a financial agent, and
 - (b) if no individual is designated as a new financial agent, all of the duties in sections 9 (2) and (3) [*duties of financial agents*], 14 and 15 continue to apply to a former financial agent.
 - (5) An assistant financial agent may continue to exercise powers and perform duties during any transition period between financial agents.

Payments to opponent and proponent groups

- 12**
- After the opponent group and proponent group are established under section 8, but not earlier than the start of the referendum campaign period, the chief electoral officer may make one or more payments under section 4 [*funding for opponent and proponent groups*] of the *Electoral Reform Referendum 2009 Act* as follows:

- (a) no more than \$1 000 000 may be paid, with \$500 000 paid, in total, to the opponent group and \$500 000 paid, in total, to the proponent group;
- (b) payments may be made to financial agents only.

How public money may be used

13 (1) For the purposes of this section:

“disqualified person” means

- (a) an organization that is not eligible under section 4 [*who may be the opponent or proponent group*] to be the opponent group or proponent group, or
- (b) an individual described in section 4 (2) (b) (i), (ii) or (iii);

“member of the opponent group” or **“member of the proponent group”** includes the financial agent and the assistant financial agent of the opponent group or proponent group, as applicable.

- (2) A member of the opponent group must not use public money except for the purposes of opposing the single transferable vote electoral system.
- (3) A member of the proponent group must not use public money except for the purposes of supporting the single transferable vote electoral system.
- (4) A member of the opponent group or proponent group must not use public money for the purpose of election advertising or making political contributions, even if the election advertising or political contribution would be used to oppose or support the single transferable vote electoral system.
- (5) A member of the opponent group or proponent group must not use public money in a manner that a reasonable person would consider
 - (a) is primarily for the benefit of a disqualified person, or
 - (b) features
 - (i) the name of a disqualified person,
 - (ii) the face or voice of a disqualified person, or
 - (iii) a slogan, a logo or another thing that is associated with a disqualified person,regardless of whether the public money is also used to oppose or support the single transferable vote electoral system.
- (6) A member of the opponent group or the proponent group must not use public money except to do one or more of the following:
 - (a) to produce or sponsor and make available to the public, in any manner but without charge to the public,
 - (i) information or advertising by means of print or electronic media of any kind, or
 - (ii) materials that include printed information or advertising, but not to incur a capital expense;
 - (b) to hold or sponsor an event that any member of the public may attend without charge, but not to incur a capital expense;

- (c) to fund or recover administrative expenses incurred in relation to an activity referred to in paragraph (a) or (b).
- (7) The chief electoral officer may issue directions respecting what is a capital expense for the purposes of this section.

Repayment of unused public money

- 14** (1) A financial agent must repay to the chief electoral officer public money held by the financial agent as follows:
- (a) if the financial agent receives a notice of repayment under subsection (3), repayment must be made in the amount and within the time stated by the notice;
 - (b) if any public money is not used, repayment of the amount of unused public money must be made
 - (i) within 90 days of the end of the referendum campaign period, or
 - (ii) if debts are outstanding or in dispute, such longer period as the chief electoral officer permits;
 - (c) if, after repayment is made under paragraph (b), public money is returned to the financial agent from any source, such as from a rebate or refund, the amount of the returned public money must be repaid within 15 days of its receipt.
- (2) The chief electoral officer may require a financial agent to repay all or part of the unused public money held by the financial agent if the chief electoral officer has reason to believe that any of the following grounds apply:
- (a) the organization on behalf of which the financial agent is acting is not eligible to be the opponent group or the proponent group;
 - (b) the person is not eligible to be a financial agent, or has contravened any provision of the *Electoral Reform Referendum 2009 Act* or this regulation;
 - (c) the opponent or proponent group, or a member of either of these, on behalf of which the financial agent is acting, has contravened any provision of the *Electoral Reform Referendum 2009 Act* or this regulation.
- (3) The chief electoral officer may require repayment under subsection (2) by delivering to the financial agent a notice of repayment setting out
- (a) the amount owed,
 - (b) the time in which the amount must be repaid,
 - (c) the reason for the repayment, and
 - (d) the manner in which repayment must be made.
- (4) If a financial agent does not repay public money in accordance with this section, the amount that is not repaid is a debt due to the government by the financial agent.

Misused public money

- 15** (1) If a financial agent has reason to believe that public money was used for a purpose or in a manner contrary to section 13 [*how public money may be used*],

the financial agent must report to the chief electoral officer, within 15 days of becoming aware that the public money may have been misused,

- (a) the amount of public money that may have been misused,
 - (b) the reason the financial agent believes that public money may have been misused,
 - (c) if known, the person who may have been responsible for the misuse,
 - (d) whether the public money that may have been misused has been repaid to the financial agent, and
 - (e) any other information the chief electoral officer requires.
- (2) If the chief electoral officer has reason to believe that public money was used for a purpose or in a manner contrary to section 13, the chief electoral officer may require a financial agent to report to the chief electoral officer, within the time stated by the chief electoral officer, the information required by the chief electoral officer.
- (3) If the chief electoral officer has reason to believe that public money was, or was likely, misused by the opponent group or the proponent group, or a member of either of these, the chief electoral officer may require the financial agent of the opponent group or proponent group to repay all or part of the amount that was misused.
- (4) For the purposes of subsection (3),
- (a) the chief electoral officer may require repayment by delivering to the financial agent a notice of repayment setting out
 - (i) the amount owed,
 - (ii) the time in which the amount must be repaid,
 - (iii) the reason for the repayment, and
 - (iv) the manner in which repayment must be made,
 - (b) the financial agent must repay the amount as required in the notice, and
 - (c) if
 - (i) the chief electoral officer has reason to believe that the financial agent knew or ought to have known at the time of disbursing public money that the public money would be, or would likely be, misused,
 - (ii) the chief electoral officer includes in the notice of repayment the reasons for the belief in subparagraph (i), and
 - (iii) the financial agent does not repay public money in accordance with this subsection,the amount that is not repaid is a debt due to the government by the financial agent.

Reconsideration of repayment notice

- 16** (1) A financial agent who receives a notice of repayment under section 14 [*repayment of unused public money*] or 15 [*misused public money*] may request the chief electoral officer to reconsider the notice by submitting to the chief electoral officer

- (a) a written request for reconsideration in the form required by the chief electoral officer, and
- (b) the reasons why the chief electoral officer should reconsider
 - (i) the issuance of the notice,
 - (ii) the amount set out in the notice, or
 - (iii) the time for repayment set out in the notice.
- (2) After considering a request for reconsideration, the chief electoral officer may confirm, rescind or vary the notice.
- (3) The chief electoral officer must provide written reasons for a decision to confirm or vary the notice.
- (4) Following a decision made under subsection (2),
 - (a) if the notice is confirmed or varied, the financial agent must repay to the chief electoral officer public money held by the financial agent in accordance with the decision and, for this purpose, section 14 (4) or 15 (4) applies, as applicable, and
 - (b) no further request for reconsideration may be made.

Other funding

- 17**
- (1) For the purposes of opposing or supporting the single transferable vote electoral system, the opponent group and the proponent group may, through their financial agents,
 - (a) receive referendum contributions in addition to public money received under this regulation, and
 - (b) incur referendum expenses, to be paid from the referendum contributions.
 - (2) The following sections of Part 4 [*Initiative Petition Financing*] of the *Recall and Initiative Act* are adopted and apply to referendum contributions and referendum expenses referred to in subsection (1) of this section as if the referendum were an initiative petition:
 - (a) Division 2 [*Initiative Petition Contributions and Expenses*], except that the reference in section 39 (1) to an initiative petition or draft Bill is to be read as a reference to the single transferable vote electoral system;
 - (b) Division 3 [*Making and Accepting Initiative Petition Contributions*], except that
 - (i) section 41 (1) (c) (iii) does not apply,
 - (ii) for the purposes of section 41 (1) (c), a referendum contribution in a greater amount may be made, in addition to the means set out in section 41 (1) (c) (i) and (ii), by means of a credit card in the name of the contributor or an electronic transfer of funds from an account in the contributor's name maintained in a savings institution, and
 - (iii) the reference in section 44 (3) [*prohibited contributions must be returned*] to the proponent must be read as a reference to the proponent group, and the liability of the proponent must be read as a

- reference to the joint and several liability of the members of the proponent group;
- (c) section 46 (2) [*restrictions on who may incur initiative petition expenses*];
 - (d) Division 6 [*Penalties for Failure to Comply*], except that
 - (i) sections 52 (1) (c) [*publication of failure to comply*], 53 [*effect of incurring expenses over limit*], 54 [*court order for relief from expenses limit*], 56 (1) (a) (i), (b) and (2) [*failure to file initiative petition financing report*] and 58 [*false or misleading reports relating to an initiative petition*] do not apply, and
 - (ii) for the purposes of section 56 (1) (a) (ii), the reference to the proponent must be read as a reference to the opponent group or the proponent group, and the persons who are members of the opponent group or proponent group are jointly and separately liable to pay the penalty referred to in that provision.
- (3) A financial agent must, within 90 days of the end of the referendum campaign period or, if debts are outstanding or in dispute, such longer period as the chief electoral officer permits, pay to either a registered charity within the meaning of the *Income Tax Act* (Canada) or the chief electoral officer for payment to the consolidated revenue fund all of the following held by the financial agent:
- (a) unused referendum contributions;
 - (b) money from referendum contributions that is returned to the financial agent from any source;
 - (c) unused interest earned on the referendum contributions and money referred to in paragraphs (a) and (b).
- (4) If a financial agent does not make payments in accordance with this section, the amount that is not paid is a debt due to the government by the financial agent.

Rescission of designation of financial agent

- 18** (1) If the chief electoral officer
- (a) has reason to believe that a financial agent
 - (i) is not eligible to be a financial agent, or
 - (ii) has committed an offence under the Act or this regulation, or
 - (b) delivers to a financial agent a notice of repayment under section 14 [*repayment of unused public money*] or 15 [*misused public money*],
- the chief electoral officer may rescind the designation of the financial agent by delivering to the financial agent a notice of rescission setting out the reason for the rescission and the date on which it is to take effect.
- (2) A financial agent who receives a notice of rescission may request the chief electoral officer to reconsider the notice by submitting to the chief electoral officer
- (a) a written request for reconsideration in the form required by the chief electoral officer, and
 - (b) the reasons why the chief electoral officer should reconsider the rescission.

- (3) After considering a request for reconsideration, the chief electoral officer may confirm, rescind or vary the notice.
- (4) The chief electoral officer must provide written reasons for a decision to confirm or vary the notice.
- (5) Following a decision made under subsection (3),
 - (a) if the decision is to rescind an individual's designation, the designation of the financial agent is rescinded on the date set by the chief electoral officer, and
 - (b) no further request for reconsideration may be made.
- (6) If the designation of a financial agent is rescinded, a new financial agent may be designated under section 11 [*changes in financial agent*] for the opponent group or proponent group on behalf of which the financial agent was acting.

PART 3 — CONDUCT OF REFERENDUM

Referendum proceedings

- 19** (1) The referendum is to be conducted in conjunction with the 2009 general election, in accordance with the *Electoral Reform Referendum 2009 Act* and this regulation.
- (2) Subject to this regulation, the procedures for conducting the referendum voting and counting are to be the same as the procedures for conducting the voting and counting for the general election.
- (3) The chief electoral officer and other election officials responsible for the general election proceedings are also responsible for the equivalent referendum proceedings.

Referendum voting to be on an electoral district basis

- 20** The referendum is to be conducted in all electoral districts in British Columbia, with the voting conducted separately for each electoral district in conjunction with the election being held for the electoral district.

Who may vote in the referendum

- 21** An individual is entitled to vote in the referendum for an electoral district if the individual is entitled to vote in the election for the electoral district.

Where a person may vote in the referendum

- 22** An individual may vote in the referendum
 - (a) at any voting opportunity at which the individual is entitled to vote in the general election, or
 - (b) by alternative absentee voting under Division 5 [*alternative absentee voting*] of Part 6 of the *Election Act*, if the individual is entitled to vote this way in the general election.

Referendum ballots and voting

- 23**
- (1) The referendum ballots must be in the form established by the Schedule to this regulation and must be printed in such a manner that, when completed and folded, they are distinguishable from the election ballots.
 - (2) An individual votes in the referendum by making a cross or tick mark in the blank space provided on the referendum ballot opposite the response that the individual wishes to give to the question on the ballot.
 - (3) If the voting procedures require the use of a secrecy envelope that is to be placed in a certification envelope, both the election ballot and the referendum ballot must be placed in the same secrecy envelope.
 - (4) In addition to the persons permitted to be present under section 93 [*individuals who may be present at voting proceedings*] of the *Election Act*, one member of each of the opponent group and the proponent group, who is designated, in writing, for this purpose by the financial agent of the opponent group or proponent group, may be present at a voting station at a voting place.
 - (5) A designation under subsection (4) must be in writing and include
 - (a) the name of the individual designated for the purposes of subsection (4), and
 - (b) the voting stations and voting places for which the individual is designated.
 - (6) An individual designated by a financial agent under subsection (4) is not a candidate representative for the purposes of applying the *Election Act* to the referendum, but section 72 (1), (2) and (4) of that Act applies to the individual as if the individual were a candidate representative.

Other referendum voting materials

- 24**
- (1) The ballot boxes for the general election are to be used for both the general election and the referendum voting, with both election ballots and referendum ballots being deposited in the same ballot boxes.
 - (2) The voting books for the general election are to be used for both the general election and the referendum.

Information to be available

- 25**
- (1) The chief electoral officer must ensure that information respecting the current electoral system and the single transferable vote electoral system is available for voters at each voting opportunity.
 - (2) To the extent practicable, the chief electoral officer must ensure that the information provided under subsection (1) does not support or oppose either electoral system.
 - (3) In addition to the information provided under subsection (1), the chief electoral officer must make available for voters at each voting opportunity maps of the electoral districts as under
 - (a) the current electoral system, and
 - (b) the single transferable vote electoral system as proposed by the Electoral Boundaries Commission in its report dated February 14, 2008 entitled

Amendments to the Preliminary Report, as modified by the alternative proposal contained in Appendix P to that report.

Rules for accepting and rejecting referendum ballots

- 26** (1) This section applies to referendum ballots in place of section 123 [*rules for accepting and rejecting ballots*] of the *Election Act*.
- (2) A ballot must be rejected if any of the following applies:
- (a) the ballot physically differs from the ballots officially provided for the voting proceedings for which the counting is being conducted;
 - (b) there is no mark referred to in subsection (3) on it;
 - (c) the ballot is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified;
 - (d) the ballot is marked as voting for more than one response to the referendum question;
 - (e) the ballot does not clearly indicate the intention of the voter to vote for a response to the referendum question.
- (3) Unless rejected under subsection (2), any of the following marks on a referendum ballot is to be accepted and counted as a vote for the applicable response to the referendum question:
- (a) a cross in or partly in the blank space provided on the ballot opposite the response;
 - (b) a tick mark that is placed in the location referred to in paragraph (a);
 - (c) a mark other than one referred to in paragraph (a) or (b) that
 - (i) is placed in the location referred to in paragraph (a), and
 - (ii) clearly indicates the intention of the voter to vote for the response.

Initial count proceedings

- 27** (1) The initial counts of the votes on election ballots and referendum ballots in a ballot box must proceed as follows:
- (a) ballot accounts are to be prepared in accordance with section 120 (1) (a) [*proceedings on the initial count*] of the *Election Act*, separately for election ballots and for referendum ballots;
 - (b) the ballot box is to be opened in accordance with section 120 (1) (b) of the *Election Act*;
 - (c) the certification envelopes are to be removed in accordance with section 120 (1) (c) of the *Election Act*;
 - (d) the election ballots are to be separated from the referendum ballots;
 - (e) the election ballots and ballot account are to be dealt with in accordance with section 120 (1) (d) and (e) of the *Election Act*;
 - (f) the election ballots and other election materials are to be packaged in accordance with section 126 (1) and (2) [*packaging and delivery of election materials to district electoral officer*] of the *Election Act*;

- (g) the referendum ballots and ballot account are to be dealt with in accordance with section 120 (1) (d) and (e) of the *Election Act*;
 - (h) the referendum ballots and other referendum materials are to be packaged in accordance with section 126 (1) and (2) of the *Election Act*;
 - (i) the election and referendum ballots and materials are to be dealt with in accordance with section 126 (3) and (4) of the *Election Act*, completing the requirements of section 120 (1) (f) of that Act for both the election ballots and referendum ballots.
- (2) The individuals entitled to be present at an initial count for the referendum are
 - (a) the individuals who were entitled to be present at the equivalent initial count for the general election, and
 - (b) one member of each of the opponent group and the proponent group who is designated, in writing, for this purpose by the financial agent of the opponent group or proponent group.
 - (3) An individual who is entitled to be present under subsection (2) (b) is not a candidate representative for the purposes of applying the *Election Act* to the referendum, but section 72 (1), (2) and (4) of that Act applies to the individual as if the individual were a candidate representative.

Final count proceedings

- 28
- (1) The final counts of the votes on election ballots and referendum ballots for an electoral district must proceed in accordance with section 132 [*proceedings on final count*] of the *Election Act*, subject to the adaptations established by this section.
 - (2) In considering certification envelopes under section 132 (1) (a) of the *Election Act*, section 134 (1) [*envelopes to remain unopened*] of that Act also applies if the individual identified on the envelope as using it to vote appears to be voting more than once in the referendum.
 - (3) The ballot accounts for each class of certification envelope under section 132 (1) (b) of the *Election Act* are to be prepared separately for election ballots and for referendum ballots, and separate ballot boxes are to be used for election ballots and for referendum ballots to be considered on the final counts after having been dealt with under section 132 (1) (c) of the *Election Act* and this section.
 - (4) In dealing with certification envelopes under section 132 (1) (c) of the *Election Act*, if a certification envelope contains a secrecy envelope and either an election ballot or referendum ballot outside the secrecy envelope, the election official responsible must open the secrecy envelope to determine whether there is a ballot in that envelope and then proceed as follows:
 - (a) if there is no ballot in the secrecy envelope, the election official must place the ballot that was outside the secrecy envelope in the ballot box to be used for the final count, with care to conceal any marking on the ballot from other individuals present;

- (b) if there is a single ballot in the secrecy envelope that is of the other type (election or referendum) from the ballot that was outside the secrecy envelope, the election official must place the ballots in the ballot box to be used for the final count, with care to conceal any marking on them from other individuals present;
 - (c) if there is a single ballot in the secrecy envelope that is of the same type as the ballot that was outside the secrecy envelope,
 - (i) the ballot from the secrecy envelope must be returned to the secrecy envelope and that envelope sealed,
 - (ii) the secrecy envelope and the ballot that was outside the secrecy envelope must be resealed in the certification envelope,
 - (iii) the certification envelope must be marked as having been dealt with under this provision, and
 - (iv) the certification envelope must remain unopened and the ballots in it must not be considered on the final count;
 - (d) if there is more than one ballot in the secrecy envelope,
 - (i) the ballots from the secrecy envelope must be returned to the secrecy envelope and that envelope sealed,
 - (ii) the secrecy envelope and the ballot that was outside the secrecy envelope must be resealed in the certification envelope,
 - (iii) the certification envelope must be marked as having been dealt with under this provision, and
 - (iv) the certification envelope must remain unopened and the ballots in it must not be considered on the final count.
- (5) In dealing with certification envelopes under section 132 (1) (c) of the *Election Act*, if a certification envelope contains 2 secrecy envelopes, the election official responsible must open both secrecy envelopes to determine whether there are ballots in the envelopes and then proceed as follows:
- (a) if there is a total of one ballot for the election and one ballot for the referendum, the election official must place the ballots in the ballot box to be used for the final count, with care to conceal any marking on them from other individuals present;
 - (b) in any other case,
 - (i) the ballots must be returned to the secrecy envelopes and the envelopes sealed,
 - (ii) the secrecy envelopes must be resealed in the certification envelope,
 - (iii) the certification envelope must be marked as having been dealt with under this provision, and
 - (iv) the certification envelope must remain unopened and the ballots in it must not be considered on the final count.
- (6) The individuals entitled to be present at the final count for the referendum are
- (a) the individuals who were entitled to be present at the equivalent final count for the general election, and

- (b) one member of each of the opponent group and the proponent group who is designated, in writing, for this purpose by the financial agent of the opponent group or proponent group.
- (7) An individual who is entitled to be present under subsection (6) (b) is not a candidate representative for the purposes of applying the *Election Act* to the referendum, but section 72 (1), (2) and (4) of that Act applies to the individual as if the individual were a candidate representative.
- (8) Following completion of the final count, the district electoral officer must immediately inform the chief electoral officer of the referendum results for the electoral district.
- (9) The chief electoral officer may make an application under section 139 [*application for judicial recount*] of the *Election Act* in relation to one or more electoral districts if, after the end of the final count, the chief electoral officer considers that the results in an electoral district or throughout the Province are sufficiently close to the thresholds established by section 5 (1) [*duty if referendum is binding*] of the *Electoral Reform Referendum 2009 Act* that a judicial recount is appropriate.

Referendum advertising

- 29 (1) Subject to subsections (2) and (3), Part 11 [*Election Communications*] of the *Election Act* is adopted and applies in relation to the referendum as if it were an election for a candidate in the general election and, without limiting this, that Part is adopted and applies to referendum advertising as if it were election advertising in relation to an election for a candidate in the general election.
- (2) The following provisions of Part 11 of the *Election Act* do not apply in relation to the referendum:
 - (a) section 228 as it relates to the definition of “election advertising”;
 - (b) section 232 [*restriction on rates charged for election advertising*];
 - (c) Division 2 [*Election Advertising Limits*];
 - (d) section 239 (2) [*registration exception for candidates, parties and constituency associations*];
 - (e) section 243 [*re-registration*];
 - (f) section 244 (3) [*report filing exception for candidates, parties and constituency associations*];
 - (g) section 245 (1) (b) [*contributions to be disclosed*].
- (3) Divisions 3 [*Registration of Sponsors*] and 4 [*Disclosure of Independent Election Advertising*] of Part 11 of the *Election Act* do not apply to the opponent group or proponent group.
- (4) Referendum advertising must not, directly or indirectly,
 - (a) promote or oppose a registered political party or the election of a candidate, or
 - (b) form part of election advertising.

- (5) In place of section 245 (1) (b) [*contributions to be disclosed*] of the *Election Act*, a report under that section in relation to referendum advertising must include the amount of referendum contributions accepted by the sponsor during the referendum campaign period, reported in accordance with subsections (2) to (4) of that section.

PART 4 — OFFENCES

Offences in relation to referendum

- 30** (1) Part 12 [*Offences*] of the *Election Act*, other than the provisions referred to in subsection (2), is adopted and applies in relation to the referendum as if it were an election for a candidate in the general election.
- (2) The following provisions of Part 12 of the *Election Act* do not apply in relation to the referendum:
- (a) section 255 (6) [*donations by candidate*] and (7) (c) and (d) [*penalties related to holding office and voting*];
 - (b) section 259 [*offences in relation to candidates*];
 - (c) section 262 [*offences in relation to the registration of political parties and constituency associations*];
 - (d) section 263 [*offences in relation to election financing*].

**SCHEDULE
REFERENDUM BALLOT**

General Voting Day: **May 12, 2009**

COUNTERFOIL

**Which electoral system
should British Columbia use to
elect members to the provincial
Legislative Assembly?**

**The existing electoral system
(First-Past-the-Post)**



**The single transferable vote electoral
system (BC-STV) proposed by the
Citizens' Assembly
on Electoral Reform**

