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# LOCAL GOVERNMENT ACT

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## LOCAL GOVERNMENT ACT

### CHAPTER 1 [RSBC 2015]

[includes 2018 Bill 23 c. 26 & Bill 24, c. 23 amendments (effective May 31, 2018)]

## Part 3: Division 5 – Qualifications for Office

### Who may hold office on a local government

- 81.** (1) A person is qualified to be nominated for office, and to be elected to and hold office, on a local government if at the relevant time the person meets all the following requirements:
- (a) the person must be an individual who is, or who will be on general voting day for the election, 18 years of age or older;
  - (b) the person must be a Canadian citizen;
  - (c) the person must have been a resident of British Columbia, as determined in accordance with section 67, for at least 6 months immediately before the relevant time;
  - (d) the person must not be disqualified under this Act or any other enactment from voting in an election in British Columbia or from being nominated for, being elected to or holding the office, or be otherwise disqualified by law.
- (2) Without limiting subsection (1) (d), the following persons are disqualified from being nominated for, being elected to or holding office on a local government:
- (a) a person who is a judge of the Court of Appeal, Supreme Court or Provincial Court;
  - (b) a person who is disqualified under section 82 as an employee of a local government, except as authorized under that section;
  - (c) a person who is disqualified under any of the following provisions of this Act, including as the provisions apply under section 6 (6) [*application to trustees*] of the *Islands Trust Act*:
    - (i) section 202 (4) [*failure to make oath or affirmation of office*];
    - (ii) section 204 (1) [*unexcused absence from board meetings*];
  - (d) a person who is disqualified under any of the following provisions of the *Community Charter*:
    - (i) Division 6 [*Conflict of Interest*] of Part 4 [*Public Participation and Council Accountability*], including as it applies under section 205 (1) [*application to regional district directors*] of this Act and under section 6 (7) [*application to trustees*] of the *Islands Trust Act*;
    - (ii) section 120 (1.1) [*failure to make oath of office*];
    - (iii) section 125 (5) [*unexcused absence from council meetings*];
    - (iv) section 191 (3) [*unauthorized expenditures*];
  - (e) a person who is disqualified under any of the provisions referred to in paragraph (c) or (d) as the provision applies under another enactment;
  - (f) a person who is disqualified from holding office on the council of the City of Vancouver under any of the provisions of the *Vancouver Charter* referred to in section 38 (2) (c) or (d) [*disqualifications from holding office*] of that Act;

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- (g) a person who is disqualified from holding office under
  - (i) Division 18 [*Election Offences*] of this Part as it applies to elections or voting under this Act or any other Act, or
  - (ii) Division (17) of Part I of the *Vancouver Charter* as it applies to elections or voting under that Act or any other Act;
- (h) a person who is disqualified under the *Local Elections Campaign Financing Act* from holding office on a local authority;
- (i) a person who is disqualified under any other enactment.  
RS2015-1-81 (B.C. Reg. 257/2015); 2016-9-42.

### Disqualification of local government employees

- 82.** (1) For the purposes of this section, "**employee**" means
- (a) an employee or salaried officer of a municipality or regional district, or
  - (b) a person who is within a class of persons deemed by regulation under section 168 [*election regulations*] to be employees of a specified municipality or regional district,  
but does not include a person who is within a class of persons excepted by regulation under section 168.
- (2) Unless the requirements of this section are met, an employee of a municipality is disqualified from being nominated for, being elected to or holding office
- (a) as a member of the council of the municipality, or
  - (b) as a member of the board of the regional district in which the municipality is located.
- (3) Unless the requirements of this section are met, an employee of a regional district is disqualified from being nominated for, being elected to or holding office
- (a) as a member of the board of the regional district, or
  - (b) as a member of the council of a municipality, including the City of Vancouver, that is within the regional district.
- (4) Before being nominated for an office to which subsection (2) or (3) applies, the employee must give notice in writing to his or her employer of the employee's intention to consent to nomination.
- (5) Once notice is given under subsection (4), the employee is entitled to and must take a leave of absence from the employee's position with the employer for a period that, at a minimum,
- (a) begins on the first day of the nomination period or the date on which the notice is given, whichever is later, and
  - (b) ends, as applicable,
    - (i) if the person is not nominated before the end of the nomination period, on the day after the end of that period,
    - (ii) if the person withdraws as a candidate in the election, on the day after the withdrawal,
    - (iii) if the person is declared elected, on the day the person resigns in accordance with subsection (8) or on the last day for taking office before the person is disqualified for a failure to take the oath of office within the time specified by an enactment that applies to the person,
    - (iv) if the person is not declared elected and an application for judicial recount is not made, on the last day on which an application for a

- judicial recount may be made, or
- (v) if the person is not declared elected and an application for judicial recount is made, on the date when the results of the election are determined by or following the judicial recount.
- (6) If agreed by the employer, as a matter of employment contract or otherwise, the leave of absence under this section may be for a period longer than the minimum required by subsection (5).
- (7) Sections 54 [*duties of employer in relation to leave*] and 56 [*employment deemed continuous while on leave*] of the *Employment Standards Act* apply to a leave of absence under this section.
- (8) Before making the oath of office, an employee on a leave of absence under this section who has been elected must resign from the person's position with the employer.
- (9) At the option of the employee, a resignation under subsection (8) may be conditional on the person's election not being declared invalid on an application under section 153 [*application to court respecting validity of election*].  
RS2015-1-82 (B.C. Reg. 257/2015).

### **Only one elected office at a time in the same local government**

- 83.** (1) At any one time a person may not hold more than one elected office in the same local government.
- (2) At any one time a person may not be nominated for more than one elected office in the same local government.
- (3) A current member of a local government may not be nominated for an election under section 54 [*by-elections*] for another office in the same local government unless the person resigns from office within 14 days after the day on which the chief election officer is appointed.  
RS2015-1-83 (B.C. Reg. 257/2015).