

PDF Version

[Printer-friendly - ideal for printing entire document]

LOCAL GOVERNMENT ACT

Published by Quickscribe Services Ltd.

Printed on: Jul. 3, 2018, 7:02pm

Important: Quickscribe offers a convenient and economical updating service for those who wish to maintain a current collection of hard copy legislation. Go to www.quickscribe.bc.ca/hardcopy/ for more details.

DISCLAIMER: These documents are provided for private study or research purposes only. Every effort has been made to ensure the accuracy and completeness of the material; however, Quickscribe Services Ltd. cannot guarantee its legal accuracy and does not accept responsibility for loss or inconvenience suffered by users as a result of inaccuracies. The material is not admissible in a court of law in accordance with the Evidence Act of British Columbia. For such purposes official Queen's Printer copies of Acts and regulations must be obtained.

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 6 – Nomination of Candidates

Nomination period

- 84.** (1) The period for receiving nominations begins at 9 a.m. on the 46th day before general voting day and ends at 4 p.m. on the 36th day before general voting day.
- (2) If the first day of the nomination period would otherwise fall on a holiday, the nomination period begins on the next day that is not a holiday.
- (3) If the last day of the nomination period would otherwise fall on a holiday, the nomination period ends on the last day before that day that is not a holiday.
- RS2015-1-84 (B.C. Reg. 257/2015).

Notice of nomination

- 85.** (1) At least 6 days but not more than 30 days before the nomination period begins, the chief election officer must issue a notice of nomination under this section in accordance with section 50 [newspaper publication].
- (2) The notice must include the following information:
- (a) the offices for which candidates are to be elected;
- (b) the dates, times and places at which nominations will be received;
- (c) how interested persons can obtain information on the requirements and procedures for making a nomination;
- (c.1) the expense limits,

(ADD)
May
19/16

- (i) made publicly available under section 63.03 of the *Local Elections Campaign Financing Act*, that apply to the election area, or
- (ii) if the election is a by-election, that apply to the election area under section 63.04 of the *Local Elections Campaign Financing Act*;

(ADD)
May
19/16

- (c.2) the third party advertising limits,

- (i) made publicly available under section 41.3 (2) of the *Local Elections Campaign Financing Act*, that apply to the election area, or
- (ii) if the election is a by-election, that apply to the election area under section 41.4 of the *Local Elections Campaign Financing Act*;

- (d) any other information required to be included by regulation under section 168 [election regulations].

- (3) The notice may include any other information the chief election officer considers appropriate.

- (4) The chief election officer may provide for additional notice of the call for nominations to be given to the public.

RS2015-1-85 (B.C. Reg. 257/2015); 2016-9-43.

Nomination of candidates

- 86.** (1) A nomination for office as a member of a local government must be made in accordance with section 87, separately for each candidate,
- (a) by at least 2 qualified nominators of the municipality or electoral area for which the nomination is made, or
 - (b) if a bylaw under subsection (2) of this section applies, by at least the minimum number of such persons as set by the bylaw.
- (2) A local government may, by bylaw, set the minimum number of qualified nominators as follows:
- (a) in relation to a municipality or electoral area that has a population of 5 000 or more, the minimum number of qualified nominators may be set at either 10 or 25;
 - (b) in relation to a municipality or electoral area that has a population of less than 5 000, the minimum number of qualified nominators may be set at 10.
- (3) In order to be qualified as a nominator, a person
- (a) must be an elector of the municipality or electoral area for which the nomination is made, and
 - (b) in the case of a nomination for an office to be filled on a neighbourhood constituency basis, must also be qualified as a resident elector or non-resident property elector in relation to the area of the neighbourhood constituency.
- (4) A person may subscribe as nominator to as many nomination documents as, but not more than, the number of persons who are to be elected to fill the office for which the election is being held.
- (5) Even if one or more of the nominators are not qualified in accordance with this section, a nomination is valid as long as the nomination is made by at least the minimum number of qualified nominators.

RS2015-1-86 (B.C. Reg. 257/2015).

Nomination documents

- 87.** (1) A nomination for local government office must be in writing and must include the following:
- (a) the full name of the person nominated;
 - (b) the usual name of the person nominated, if the full name of the person is different from the name the person usually uses and the person wishes to have his or her usual name on the ballot instead;
 - (c) the office for which the person is nominated;
 - (d) the residential address of the person nominated, and the mailing address if this is different;
 - (e) the names and residential addresses of the nominators and, if a nominator is a non-resident property elector, the address of the property in relation to which the nominator is such an elector;
 - (f) a statement signed by the nominators that, to the best of their knowledge, the person nominated is qualified under section 81 [*who may hold office on a local government*] to be nominated.
- (2) For a nomination to be accepted for filing, a nomination must be accompanied by the following:
- (a) a statement signed by the person nominated consenting to the nomination;

- (b) a solemn declaration in accordance with subsection (3) of the person nominated, either made in advance or taken by the chief election officer at the time the nomination documents are delivered;
 - (c) as applicable, a signed declaration of the person nominated
 - (i) that the person is acting as his or her own financial agent, or
 - (ii) identifying the person who is appointed under the *Local Elections Campaign Financing Act* to act as financial agent for the person nominated;
 - (d) the written disclosure required by section 2 (1) of the *Financial Disclosure Act*.
- (3) For the purposes of subsection (2) (b), the person nominated must make a solemn declaration
- (a) that he or she is qualified under section 81 to be nominated for the office,
 - (b) that, to the best of the person's knowledge and belief, the information provided in the nomination documents is true,
 - (c) that the person fully intends to accept the office if elected, and
 - (d) that the person
 - (i) is aware of the *Local Elections Campaign Financing Act*,
 - (ii) understands the requirements and restrictions that apply to the person under that Act, and
 - (iii) intends to fully comply with those requirements and restrictions.
- (4) A person must not consent to be nominated knowing that he or she is not qualified to be nominated.

RS2015-1-87 (B.C. Reg. 257/2015).

Nomination deposits

- 88.**
- (1) The local government may, by bylaw, require that a nomination for mayor, councillor or electoral area director be accompanied by a nomination deposit.
 - (2) The amount of a required nomination deposit may be different for the different offices referred to in subsection (1), but must not be greater than \$100.
 - (3) A nomination deposit must be held by the chief election officer to be dealt with as follows:
 - (a) if the person nominated is not declared to be a candidate under section 97 [*declaration of candidates*], the deposit is to be returned to the person or to the financial agent for the person;
 - (b) in the case of a person declared to be a candidate, if the candidate disclosure statement required under the *Local Elections Campaign Financing Act* for the person is filed in accordance with section 47 (1) [*time limit for filing on time*] of that Act, the deposit is to be returned to the person or the financial agent for the person;
 - (c) in the case of a person declared to be a candidate, the deposit is to be returned to the person or the financial agent for the person if the required candidate disclosure statement is not filed as referred to in paragraph (b), but
 - (i)

an application for relief in relation to the disclosure statement is made under Division 2 [*Court Orders for Relief in Relation to Disclosure Requirements*] of Part 6 of the *Local Elections Campaign Financing Act*,

- (ii) the court provides relief in relation to forfeiture of the deposit, and
- (iii) if applicable, there is compliance with the court order;
- (d) in other cases, the deposit is forfeited and is to be paid to the local government.

RS2015-1-88 (B.C. Reg. 257/2015).

Nomination by delivery of nomination documents

- 89.** (1) In order to make a nomination,
- (a) the nomination documents required by section 87, and
 - (b) if applicable, the nomination deposit required under section 88
- must be received before the end of the nomination period by the chief election officer or a person designated by the chief election officer for this purpose.
- (2) The obligation to ensure that the nomination documents and nomination deposit are received in accordance with this section rests with the person being nominated.
 - (3) For the purposes of subsection (1), the nomination documents and nomination deposit
 - (a) must be received at the local government offices during its regular office hours, and
 - (b) may be received at other times and places as specified by the chief election officer.
 - (4) Nomination documents may be delivered
 - (a) by hand, by mail or by other delivery service, or
 - (b) by fax or email, with originals to follow.
 - (5) If the originals of nomination documents delivered by fax or email are not received by the chief election officer before the end of the 29th day before general voting day, the person nominated is deemed to have withdrawn from being a candidate in the election.
 - (6) After receiving nomination documents, the chief election officer must review the list under section 60 [*Elections BC to maintain disqualification lists*] of the *Local Elections Campaign Financing Act* to determine whether an application must be made under section 91 (5) [*challenge required if candidate appears to be disqualified*] of this Act.
 - (7) Nomination documents delivered to the chief election officer
 - (a) must be available for public inspection in the local government offices during its regular office hours from the time of delivery until 30 days after the declaration of the election results under section 146, and
 - (b) if a bylaw under subsection (8) applies, must be made available to the public in accordance with the bylaw.
 - (8) A local government may, by bylaw, provide for public access to nomination documents, during all or part of the period referred to in subsection (7) (a), in any manner the local government considers appropriate, including by the internet or

other electronic means.

- (9) A person who inspects or otherwise accesses nomination documents under this section must not use the information included in them except for the purposes of this Act or purposes authorized by section 63 [*restrictions on use of personal information*] of the *Local Elections Campaign Financing Act*.

RS2015-1-89 (B.C. Reg. 257/2015).

Other information to be provided by candidate

90. (1) A person who is nominated for local government office must, before the end of the nomination period, provide the following to the chief election officer:
- (a) a telephone number at which the person may be contacted;
 - (b) an email address at which the person may be contacted, unless the person does not have such an address;
 - (c) an address for service at which notices and other communications under this Act or other local elections legislation will be accepted as served on or otherwise delivered to the person;
 - (d) as applicable,
 - (i) a statement that the person is acting as his or her own financial agent, or
 - (ii) the information and material required under section 17 (5) [*candidate financial agent appointment documents*] of the *Local Elections Campaign Financing Act*;
 - (e) any other information or material required by regulation under section 168 [*election regulations*].
- (2) If the information and material required under subsection (1) are not received by the chief election officer before the end of the nomination period, the person nominated is deemed to have withdrawn from being a candidate in the election.
- (3) If there is any change in the information or related material required to be provided under subsection (1), the person nominated must provide updated information and material as follows:
- (a) to the chief election officer if the change occurs before the declaration of the results of the election;
 - (b) to the BC chief electoral officer if the change occurs after the declaration of those results.

RS2015-1-90 (B.C. Reg. 257/2015).

Challenge of nomination

91. (1) A nomination may be challenged only by an application to the Provincial Court in accordance with this section.
- (2) The time period during which a challenge may be made is between the time of the delivery of the nomination documents in accordance with section 89 and 4 p.m. on the 4th day after the end of the nomination period.
- (3) A challenge may be made only by
- (a) a person who is an elector of the municipality or electoral area for which the election is being held,
 - (b) another nominee in the same election, or
 - (c) the chief election officer.

- (4) A challenge may be made only on one or more of the following bases:
 - (a) that the person is not qualified to be nominated or elected;
 - (b) that the nomination was not made in accordance with sections 86 to 89;
 - (c) that the usual name given under section 87 (1) (b) in the nomination documents is not in fact the usual name of the person.
- (5) The chief election officer must commence a challenge under this section if, on a review under section 89 (6) [*review of disqualification list*], it appears to the chief election officer that a person is disqualified from being nominated.
- (6) The document filed with the court to commence a challenge must briefly set out the facts on which the challenge is based and must be supported by affidavit as to those facts.
- (7) At the time a challenge is commenced, a time must be set for the hearing that is adequate to allow the court to give its decision on the matter within the time limit set by subsection (9).
- (8) The person making a challenge must
 - (a) immediately give notice of the challenge to the chief election officer and the person whose nomination is challenged, and
 - (b) within 24 hours of filing the document commencing the application, serve on these persons that document, the accompanying affidavit and a notice of the time set for the hearing.
- (9) Within 72 hours of the end of the period for commencing a challenge, the court must hear and determine the matter and must issue an order, as applicable,
 - (a) confirming the person as a candidate or declaring that the person is no longer a candidate, or
 - (b) declaring that the person is or is not entitled to have the usual name indicated in the nomination documents used on the ballot.
- (10) The court may order that the costs of a challenge, within the meaning of the Supreme Court Civil Rules, be paid in accordance with the order of the court.
- (11) The decision of the court on a challenge under this section is final and may not be appealed.

RS2015-1-91 (B.C. Reg. 257/2015).