



ELECTIONS BC
A non-partisan Office of the Legislature

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MEDIA OBLIGATIONS FOR RECALL PETITIONS

Table of Contents

Introduction	1
Definitions	2
Recall Advertising	4
Sponsorship of recall advertising.	4
Registration of recall advertising sponsors	4
Recall advertising limits	4
Recall advertising must indicate sponsorship	5
Restrictions on rates charged for recall advertising.	6
Recall Opinion Surveys	6
Questions?	7

Introduction

Under the *Recall and Initiative Act*, the media has certain obligations relating to the publication or broadcasting of recall advertising. Elections BC has prepared this guide to highlight and summarize some of the legislated provisions with which media outlets (e.g., radio, newspapers, television, magazines) must comply. General definitions, plus rules for conducting recall advertising and third party advertising are provided.

If any part of this document conflicts with what appears in the *Recall and Initiative Act*, the Act shall be deemed the exclusive authority.

Definitions

Advertising:	Advertising is any public promotional material including, but not limited to, leaflets, lawn signs, billboards, brochures, buttons, badges, newspapers, radio, television, Web sites, newsletters and public address systems.
Authorized Participant:	The authorized participants for a recall petition are the proponent of the petition and the Member who is the subject of the petition.
Chief Electoral Officer:	An officer of the Legislature. The Chief Electoral Officer is responsible for the administration of the <i>Recall and Initiative Act</i> .
Conduct:	Conducting advertising means to publish or sponsor recall advertising. Publish means the dissemination of recall advertising through various media: print, electronic (radio and television) and/or public address system and Web sites.
Member:	A Member of the Legislative Assembly.
Recall Advertising:	Advertising used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the petition.
Recall Opinion Survey:	A recall opinion survey is an opinion survey respecting the recall of a Member, including an opinion survey in respect of a matter publicly discussed in relation to the recall of the Member.

Recall Petition:	Recall petition means a petition issued by the Chief Electoral Officer (under the <i>Recall and Initiative Act</i>) for the recall of a Member.
Recall Petition Period:	The period commencing on the day on which a recall petition application is approved in principle by the Chief Electoral Officer and ending either 60 days from the date on which the petition is issued by the Chief Electoral Officer, or on the day on which the petition is submitted to the Chief Electoral Officer, if earlier.
Recall Petition Proponent:	The registered voter who applied for the issuance of a petition.
Recall Contribution:	A recall contribution is an amount of money or the value of any property or services provided without compensation by way of donation, advance, deposit, discount or otherwise to an authorized participant at any time in relation to a recall petition.
Recall Expense:	A recall expense is the value of property or services used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the recall petition.
Sponsor:	A sponsor is an individual or organization who pays for recall advertising or a recall opinion survey to be conducted or an individual or organization for whom recall advertising or a recall opinion survey is conducted without charge as a contribution, or on whose behalf recall advertising or a recall opinion survey is conducted.

Recall Advertising

“Recall advertising” is advertising used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the petition. This includes all forms of advertising, such as media advertising, brochures, signs, etc.

Recall advertising can only be conducted by a proponent, a Member or a registered recall advertising sponsor.

Sponsorship of recall advertising

S. 135 The sponsor of recall advertising is the individual or organization who pays for the advertising, who receives the services of conducting the advertising as a contribution, or who has recall advertising conducted on their behalf.

An individual or organization must not sponsor recall advertising with the property of any other individual or organization or indirectly through any other individual or organization.

Registration of recall advertising sponsors

S. 144 Individuals or organizations who intend to sponsor recall advertising must be registered with the Chief Electoral Officer.

Recall advertising limits

S. 140 The Supreme Court of British Columbia has found that the \$5,000 advertising expense limit under the *Election Act* is unconstitutional. The Chief Electoral Officer has subsequently been advised that the \$5,000 third party advertising expense limit under the *Recall and Initiative Act* would likely be found unconstitutional and any prosecution would be untenable.

Therefore, although the provisions remain in the *Recall and Initiative Act*, the recall advertising expense limit of \$5,000 is not enforceable.

The requirements for third party advertisers to register and file financial disclosure reports remain in effect.

Recall advertising must indicate sponsorship

S. 137 Recall advertising must not be conducted (or published) unless it:

- identifies the name of the sponsor, or in the case of an authorized participant, the name of the financial agent;
- indicates that it was authorized by the identified sponsor or, in the case of an authorized participant, the financial agent;
- indicates that the sponsor is a registered sponsor under the *Recall and Initiative Act* (if applicable); and
- gives a British Columbia telephone number or British Columbia mailing address at which the sponsor or financial agent may be contacted regarding the advertising.

Example:

*Authorized by Jane Doe, financial agent, (250) 123-4567; or
 Authorized by Jane Doe Company, registered sponsor under the Recall and Initiative Act, (250) 123-4567.*

Recall advertising sponsors must make an individual available who is responsible for answering questions from the public that are directed to the address or phone number indicated on the advertising.

Restrictions on rates charged for recall advertising

S. 138 Individuals and organizations must not charge a rate for recall advertising in a periodical publication (newspaper, magazine, etc.) or on radio or television that exceeds the lowest rate charged by the individual or organization for equivalent advertising in the same medium during the same recall petition period.

Recall Opinion Surveys

S. 134, 139 The Supreme Court of British Columbia has found that the provisions regarding opinion surveys under the *Election Act* are unconstitutional. The Chief Electoral Officer has subsequently been advised that similar provisions under the *Recall and Initiative Act* would likely be found unconstitutional and any prosecution would be untenable.

Therefore, although the provisions remain in the *Recall and Initiative Act*, the requirement for publication of recall opinion survey methodology is not enforceable.

Questions?

For more information contact:

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