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GUIDE TO THE INITIATIVE PROCESS

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Introduction

Elections BC has prepared this guide to help you understand the initiative process. This guide is not meant to substitute for the provisions of the *Recall and Initiative Act*. To ensure compliance with the law, participants in the initiative process should refer to the *Recall and Initiative Act* and Regulations.

The *Recall and Initiative Act* is available for viewing on our website (www.elections.bc.ca) or can be purchased from Crown Publications Inc. (www.crownpub.bc.ca).

Definitions

Advertising:	Advertising is any public promotional material including, but not limited to leaflets, lawn signs, billboards, brochures, buttons, badges, websites, newspapers, radio, television, newsletters and public address systems.
Authorized Participant:	<p>The authorized participants for an initiative petition are the proponent of the petition and registered opponents and opponent groups.</p> <p>The authorized participants for an initiative vote are the registered proponents of the initiative vote, which may include the proponent of the petition, other proponents and proponent groups and registered opponents and opponent groups.</p>
Canvasser:	A registered voter who assists a proponent by canvassing for signatures on an initiative petition. Canvassers must be registered with the Chief Electoral Officer prior to canvassing for signatures, and must not accept any pay or other inducement for canvassing.
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 initiative advertising. Publish means the dissemination of initiative advertising through various media; print, electronic (radio, television, and websites) and public address systems.
Initiative Advertising:	Advertising used during an initiative petition period to promote or oppose, directly or indirectly, the initiative petition or draft Bill, or during an initiative vote period to promote or oppose, directly or indirectly, an initiative.

Initiative Petition:	A petition to have a proposed law introduced into the Legislative Assembly.
Initiative Petition/ Initiative Vote Contribution:	An initiative petition or initiative vote 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 an initiative petition or initiative vote.
Initiative Petition/ Initiative Vote Expense:	An initiative petition or initiative vote expense is the value of property or services used during an initiative petition period or initiative vote period to promote or oppose, directly or indirectly, an initiative petition, draft Bill, or an initiative in relation to an initiative vote.
Initiative Petition/ Initiative Vote Opponents/ Opponent Groups:	Individuals and organizations who oppose an initiative petition or initiative vote and for whom a financial agent has been designated by the Chief Electoral Officer. An opponent group is two or more individuals and/or organizations that have the same financial agent. For the purposes of initiative petition or initiative vote financing and communications, this includes individuals or organizations who intend to become opponents or who were opponents.
Initiative Petition Period:	The period starting on the day an initiative petition application is approved in principle by the Chief Electoral Officer and ending either 90 days from the date on which the petition was issued by the Chief Electoral Officer, or on the day on which the petition is submitted to the Chief Electoral Officer, if earlier.

Initiative Petition Proponent:	The registered voter who applied for the issuance of an initiative petition. For the purposes of initiative petition financing and initiative advertising, an initiative proponent includes an individual who intends to become a proponent or who was a proponent.
Initiative Vote:	If the Select Standing Committee refers an initiative petition and draft Bill to the Chief Electoral Officer, the Chief Electoral Officer must hold an initiative vote under the <i>Recall and Initiative Act</i> .
Initiative Vote Period:	An initiative vote period is the period starting 60 days before General Voting Day for an initiative vote and ending at the close of general voting for the initiative vote.
Initiative Vote Proponent/ Proponent Group:	The proponent(s) of an initiative vote may be the proponent of the initiative petition, or individuals or organizations for whom a financial agent has been designated by the Chief Electoral Officer. A proponent group is two or more individuals or organizations that have the same financial agent. For the purposes of initiative vote financing and initiative vote communications, this includes individuals and organizations who intend to become proponents or who were proponents.
Select Standing Committee:	At the commencement of the first session of each Parliament, the committee of selection appointed under the Standing Orders of the Legislative Assembly must appoint a Select Standing Committee on Legislative Initiatives for the purposes of the <i>Recall and Initiative Act</i> .

Sponsor:

A sponsor is an individual or organization who pays for initiative advertising to be conducted or who has initiative advertising conducted on their behalf, or who receives the services of conducting initiative advertising without charge as a contribution. Other than a proponent or opponent, a sponsor of initiative advertising must be registered with the Chief Electoral Officer.

An Overview of the Initiative Process

Initiative is a process that allows registered voters to propose new laws or change existing laws. A suggested law must be within the jurisdiction of the Legislature of British Columbia and not a matter of federal responsibility.

Any registered voter can apply to have a petition issued to gather support for a legislative proposal. A legislative proposal can be on any matter within the jurisdiction of the provincial legislature. A registered voter who wants to start an initiative petition must obtain an application form from the Chief Electoral Officer. The completed application form must be submitted to the Chief Electoral Officer with a processing fee of \$50 and a copy of the proposed law in the form of a draft Bill.

If the application is approved, a petition is issued to the applicant (called a proponent) 60 days later. The proponent then has 90 days to collect signatures of 10% of the registered voters in each electoral district. The proponent may be helped by volunteers when canvassing for signatures.

When all the signed petition sheets are submitted, the Chief Electoral Officer has 42 days to verify that enough valid signatures have been collected. If the verification process shows that sufficient signatures have been collected and the financing requirements have been met by the proponent, the Chief Electoral Officer sends a copy of the petition and draft Bill to a Select Standing Committee of the Legislature.

The Select Standing Committee on Legislative Initiatives must meet within 30 days of receipt of the initiative

petition and draft Bill. The Select Standing Committee has 90 days to consider the legislative proposal. The Committee must either table a report recommending introduction of the draft Bill or refer the initiative petition and draft Bill to the Chief Electoral Officer for an initiative vote.

If an initiative vote is required, initiative votes must be held every three years, on the last Saturday of September, starting in 1996. If more than 50% of the total number of registered voters in the province vote in favour of an initiative, and more than 50% of the total number of registered voters in each of at least 2/3 of the electoral districts in the province vote in favour of an initiative, the Chief Electoral Officer must declare the initiative vote to be successful and the government must introduce the Bill at the earliest practicable opportunity.

After a Bill is introduced into the legislature, the requirements of the *Recall and Initiative Act* have been satisfied, and any subsequent reading, amendment, or passage of the Bill will proceed as with any other Bill, with no guarantee of passage.

The Initiative Petition

The application process

- s. 3 Any registered voter can apply to have a petition issued to gather support for a legislative proposal. Organizations cannot apply to have a petition issued; only an individual who is a registered voter in British Columbia is eligible to apply. A legislative proposal can be on any matter within the jurisdiction of the provincial legislature. However, the proposal must not be the same as, or substantially similar to, the topic of an initiative petition currently in process or under review.

A registered voter who wants to start an initiative petition must obtain an application package from the Chief Electoral Officer. When an application is submitted, it is checked to ensure it is complete. If it is incomplete in any way, the applicant is notified immediately so any errors or omissions can be corrected.

A complete application consists of the fully completed and signed application form, the legislative proposal in the form of a draft Bill, and a nonrefundable \$50 processing fee.

The processing fee may be paid by cash, money order, traveller's cheque, or a certified cheque payable to the Minister of Finance. Uncertified cheques will not be accepted.

The application form requires the applicant's name, residential and mailing addresses, telephone number and a solemn declaration. The solemn declaration must be witnessed by a Commissioner for taking affidavits for British Columbia. Service BC - Government Agents and certain Elections BC staff may witness the declaration at no charge.

A draft Bill must be written in a clear and unambiguous manner and the subject matter must fall within provincial jurisdiction. If a draft Bill appears to be unacceptable due to problems in drafting or constitutionality, the petitioner is notified and given an opportunity to correct the problems before the draft Bill is forwarded to the Chief Electoral Officer for formal review.

If the application and draft Bill meet the requirements of the *Recall and Initiative Act*, the Chief Electoral Officer notifies the proponent that approval in principle will be granted and that a petition will be issued. Approval in principle of an application is officially granted at the time a notice of petition is published in the *British Columbia Gazette*. Notice is also published in at least one daily newspaper circulating in the province.

Opponents of an initiative petition

s. 31

An individual or organization who wishes to oppose an initiative petition and wishes to incur expenses in their opposition campaign must apply to register as either an opponent or as an initiative advertising sponsor.

Potential opponents must apply to the Chief Electoral Officer within 30 days after the day on which notice of approval in principle for the petition is published in the *British Columbia Gazette*.

The Chief Electoral Officer appoints the financial agent for initiative petition opponents and opponent groups. An opponent or opponent group must not act in that capacity until given notice by the Chief Electoral Officer that they are registered and that an individual has been appointed as financial agent.

Issue of initiative petition

- s. 4 The Chief Electoral Officer must issue the petition to the proponent 60 days after notice is published in the *British Columbia Gazette*.

The initiative petition period

- s. 4 The initiative petition period begins on the day a petition application is approved in principle, and ends either 90 days after the petition is issued, or when the proponent submits the signed petition sheets to the Chief Electoral Officer for verification, if earlier.

Initiative petition sheet requirements

When a petition is issued, the Chief Electoral Officer provides to the proponent a cover sheet and a separate petition sheet for each electoral district. The cover sheet and petition sheets provided must not be altered in any way. Only signatures gathered on copies of the official petition sheet will be considered for petition verification purposes. Signatures gathered on other forms or sheets will not be accepted.

It is the responsibility of the proponent to duplicate petition sheets and cover sheets in sufficient quantities for signature gathering.

Petition sheets must be printed on white 20 lb. bond paper. This is the paper normally used in most photocopiers. Petition sheets must be printed on only one side, and must not be photocopied from a faxed original. This is to ensure that the imaging system used during verification can accurately read each petition line.

Petition cover sheets contain the summary of the draft Bill, and information regarding the proponent and financial agent of the initiative. Cover sheets may be photocopied on any colour or weight of paper. A cover sheet must be attached to the petition sheet(s) while the petition sheets are in circulation.

Who may sign an initiative petition

- s. 5, 7 The *Recall and Initiative Act* requires that an initiative petition be signed by 10% of the registered voters in

each electoral district in the province. The proponent is provided with the total number of registered voters in each electoral district as of the date on which the petition is issued. It is this number that is used to determine the 10% threshold.

An initiative petition can only be signed by a registered voter who was registered to vote on the date the petition was issued. A person may only sign the petition sheet for the electoral district in which they are a registered voter at the time of signing. A signature on a petition must be accompanied by the residential address at which the individual who signed is registered as a voter and must be witnessed by the individual who canvassed the signature (a registered canvasser). Signatures that do not include the residential address of the voter who signed the petition will not be counted. Mailing addresses are not acceptable.

The voters list is not available to the proponent or opponents of an initiative petition. It is recommended that considerably more signatures be gathered than the threshold to compensate for any invalid signatures that may be inadvertently collected.

Who may canvass for signatures

s. 6

A proponent may be helped by volunteers to gather signatures. The volunteers are called canvassers. Canvassers may not accept, directly or indirectly, any pay or other inducement for canvassing for signatures.

Signatures gathered by unregistered canvassers are not accepted during the petition verification process.

Canvassers must be registered voters, and must have been a resident in British Columbia for at least six months before the date on which they intend to begin canvassing. Canvassers must register with the Chief Electoral Officer prior to canvassing for signatures. Registered canvassers may canvass for signatures in any electoral district.

Canvasser application forms are available from Elections BC or may be downloaded from our website www.elections.bc.ca. Registered voters may apply to be canvassers any time after an application for an initiative petition has been submitted to the Chief Electoral Officer. Applications for registration as a canvasser must include the applicant's name, residential address and telephone number and be signed by the applicant

and proponent. Each application is reviewed to ensure that the applicants are registered voters.

Proponents who intend to canvass for signatures must also register as a canvasser to ensure that the signatures they gather are accepted.

Responsibilities of the canvasser

The following rules must be observed:

- Canvassers must canvass only during the initiative period. Canvassing for signatures is not permitted following the close of a petition period, regardless of whether or not the full 90 days has elapsed.
- Canvassers must carry the identification issued by the Chief Electoral Officer and produce it upon request.
- Canvassers must ensure that signatories are aware of the requirement that they be registered voters in the electoral district for which they sign a petition.
- Canvassers must not knowingly make any false or misleading statements about the petition or the subject of the petition.
- Canvasser must ensure a cover sheet is attached to the petition sheets while being circulated for signatures.
- Canvassers must ensure the petition sheets are signed in ink on the preprinted side of the petition sheets. No unnecessary lines or marks should be made on petition sheets. Do not draw a diagonal line across the unsigned portion of the page.
- Canvassers must ensure that a person only signs a petition once.
- Canvassers must ensure that only one voter's name, residential address, phone number and signature appears on a line of the petition sheet.
- Canvassers must witness every signature they collect.
- Canvassers must not remove, cross out or interfere with a signature on a petition.
- Canvassers must not use information obtained in canvassing for signatures for any other purposes.
- Canvassers must ensure that signed petition sheets are not left unattended or made available for scrutiny by the general public.

- Canvassers must not accept initiative contributions of money, goods or services unless appointed in writing as an assistant financial agent to the proponent.
- Canvassers must not accept inducement for canvassing for signatures on a petition.

Submitting a petition

s. 7

The proponent must submit, at one time, all of the petition sheets containing signatures to the Chief Electoral Officer. The petition period ends when the proponent submits the petition to the Chief Electoral Officer, regardless of whether the full 90 days has elapsed. No late submissions or partial submissions will be accepted. It is therefore recommended that proponents be fully satisfied that they have gathered enough signatures in all electoral districts, including a surplus to compensate for any invalid signatures, prior to submitting a petition for verification.

Original signed petition sheets must be submitted to the Chief Electoral Officer; photocopies and faxes of signed petition sheets are not acceptable. Petition sheets must be bundled by electoral district. A single summary sheet showing the proponent's account of the number of sheets and signatures for each electoral district must be submitted with the petition. If it is apparent from review of the summary sheet that there are insufficient signatures for any electoral district, the initiative petition will be rejected.

Verification by the Chief Electoral Officer

s. 7, 8

The verification process ensures that the people who signed a petition were entitled to do so. A preliminary review of petition sheets is conducted to obtain a manual count of petition sheets and signatures. Each sheet is then assessed to ensure that it is signed in ink and witnessed by an authorized canvasser. The manual counts of sheets and signatures are adjusted accordingly.

Next, the eligibility of signatories is assessed. Petition sheets are scanned and data captured. The Recall and Initiative Verification System (RIVERS) searches for a match between each petition line and a record on the initiative petition voters list. If more than one voter record matches a petition line an operator reviews the data

to make a determination. If no match can be found, the petition line is rejected. If a matching voter record is found, the petition line is considered valid and is counted toward the threshold for that electoral district.

The initiative petition proponent and initiative petition opponents and opponent groups, or their designates, are permitted to observe the verification process, and are notified by the Chief Electoral Officer of when and where verification will be conducted.

Public inspection of initiative petitions

- s. 168 After the Chief Electoral Officer has completed verification of a petition, the petition must be available for public inspection in the Chief Electoral Office for one year. Signatories who wish to have their residential address and telephone number obscured from public inspection may indicate this by initialing next to their signature on the petition sheet at the time of signing. Individuals wishing to view a petition must first sign a declaration that they will not use the personal information they view for any purpose not permitted by the *Recall and Initiative Act* or *Election Act*.

Select Standing Committee

Referral of initiative to the Select Standing Committee

- s. 10, 11 If the verification process shows that the threshold has been met in every electoral district, and the financing requirements have been met by the proponent, the Chief Electoral Officer sends a copy of the initiative petition and the draft Bill to the Select Standing Committee on Legislative Initiatives. The Select Standing Committee must meet within 30 days of receipt of the initiative petition and draft Bill. From their first meeting, the Committee has 90 days to consider the legislative proposal. Within the 90 days, the Committee must either table a report recommending introduction of the draft Bill, or refer the initiative petition and draft Bill to the Chief Electoral Officer for an initiative vote.

If the Committee recommends introduction of the draft Bill, the Government must introduce the Bill at the earliest practicable opportunity. After the Bill is introduced to the Legislative Assembly, the requirements of the *Recall and Initiative Act* have been satisfied, and any subsequent reading, amendment and passage of the Bill

will proceed as with any other Bill, with no guarantee of passage.

If the Committee refers the initiative petition and draft Bill to the Chief Electoral Officer, an initiative vote must be held. If an initiative vote is declared successful by the Chief Electoral Officer, the government must introduce the Bill at the earliest practicable opportunity. In the event of a successful initiative vote, once the Bill is introduced to the Legislative Assembly, the requirements of the *Recall and Initiative Act* have been satisfied, and any subsequent reading, amendment and passage of the Bill will proceed as with any other Bill, with no guarantee of passage.

Initiative Vote

s. 14, 15 Initiative votes are conducted on a fixed schedule commencing on September 28, 1996, and on the last Saturday of September in every third year after that date. Initiative votes are conducted according to Regulations established by the Lieutenant Governor in Council. Several initiatives may be voted on at one time.

A notice must be published in the *British Columbia Gazette* by the Chief Electoral Officer at least 90 days before General Voting Day for an initiative vote. Notice is also published in at least one newspaper circulating in British Columbia.

For an initiative vote to be successful, more than 50% of the total number of registered voters in the province must vote in favour of the initiative, and more than 50% of the total number of registered voters for each of at least 2/3 of the electoral districts in the province must vote in favour of the initiative.

Proponents of an initiative vote

s. 60, 62 An individual or organization who wishes to be a proponent for an initiative vote must apply to the Chief Electoral Officer within 30 days after the day on which notice of the vote is published in the *British Columbia Gazette*. The Chief Electoral Officer must designate financial agents for proponents and establish proponent groups as soon as possible after the end of the application period.

Opponents of an initiative vote

- s. 63 An individual or organization who wishes to be an opponent of an initiative vote must apply to the Chief Electoral Officer within 30 days after the day on which notice of the vote is published in the *British Columbia Gazette*. The Chief Electoral Officer must designate financial agents for opponents and establish opponent groups as soon as possible after the end of the application period.

Initiative Petition/Initiative Vote Financing

The *Recall and Initiative Act* contains many provisions governing the financing of initiative proponent and opponent campaigns. These provisions include the appointment of financial agents, obligations of financial agents, definitions of initiative petition and initiative vote contributions and expenses, expense limits, recording requirements, and more. It is essential that participants observe these rules carefully. Failure to comply with the financing provisions of the *Recall and Initiative Act* may result in failure of the initiative petition or initiative vote, or may result in significant penalties.

Financial Agents

- s. 29, 30, Initiative proponents, opponents, and opponent groups must have financial agents.
32, 59,
61, 62, 63 The following individuals are disqualified from acting as a financial agent:
- an individual who does not have the full capacity to enter into contracts (e.g. a minor child);
 - an individual who has an unpaid penalty for incurring initiative petition expenses or initiative vote expenses over the allowable limits;
 - an individual who has an unpaid penalty for failure to file an initiative petition financing report, or an initiative vote financing report, or who has not yet filed an overdue report;
 - an individual who, at any time within the previous 7 years, has been convicted of an offence under the *Recall and Initiative Act* or the *Election Act*; and

- an election official, a voter registration official or a member of the staff of the Chief Electoral Officer.

The proponent of a petition may act as their own financial agent for the initiative petition and/or initiative vote. However, other proponents and opponents must have their financial agents designated for them by the Chief Electoral Officer.

Within 60 days of publication in the *British Columbia Gazette* of approval in principle for an initiative petition, the proponent must provide the Chief Electoral Officer with a completed appointment form for a financial agent, or confirm that the proponent will be acting on their own behalf in that capacity. An initiative petition proponent who wishes to be an initiative vote proponent for the same initiative must appoint a financial agent within 30 days after the notice of the initiative vote is published in the *Gazette*.

The Chief Electoral Officer designates the financial agents for other proponents, proponent groups, opponents and opponent groups. Initiative vote proponents, other than the proponent of the petition, or opponents must not act in that capacity until given notice by the Chief Electoral Officer that they are registered and that an individual has been appointed as financial agent. Sections 32 and 63 of the *Recall and Initiative Act* detail the relevant provisions.

Responsibilities of a financial agent

s. 34, 64

Financial agents are responsible for ensuring that the financial activities of a proponent, proponent group, opponent or opponent group in relation to an initiative petition or an initiative vote are in compliance with the provisions of the *Recall and Initiative Act*. Some of the financial agent's responsibilities include:

- ensuring that all contributions, other income, initiative expenses, and other expenditures are recorded and reported as required;
- ensuring that every expenditure of more than \$25 is documented by a statement detailing the expenditure (e.g. an invoice or receipt);
- ensuring that all money received by or on behalf of an authorized participant in relation to an initiative petition or initiative vote is deposited in an account in a savings institution;

- ensuring that all expenditures of an authorized participant are paid from an account in a savings institution;
- retaining, in British Columbia, all financial records and receipts relative to a report filed under the Act for a period of five years after filing the report;
- filing an initiative petition financing report within 28 days after the end of the initiative petition period; and
- filing an initiative vote financing report within 90 days after the end of the initiative vote period.

A financial agent is not personally liable for any liability of a proponent or opponent unless the liability is personally guaranteed by the financial agent.

Assistant financial agents

- s. 35, 64 A financial agent may authorize one or more individuals to accept initiative contributions and incur initiative expenses on behalf of the financial agent.

Authorization to act as an assistant financial agent must be in writing, and a copy of the authorization must be sent to the Chief Electoral Officer as soon as possible.

Assistant financial agents must be appointed separately for initiative petition financing and initiative vote financing purposes.

Initiative Contributions

- s. 36, 65 An initiative contribution is the amount of money or the value of any property (goods) or services provided without compensation by way of donation, advance, deposit, discount or otherwise to an authorized participant in relation to an initiative petition or initiative vote.

This means that any money, services, or property provided, at any time, without compensation to a proponent, proponent group or registered opponent or opponent group in relation to an initiative petition or initiative vote is an initiative contribution, even if the contribution was received after the initiative petition period or initiative vote period had ended, or before either period commenced.

Initiative contributions are not eligible for tax receipts, and may not be claimed as a tax credit for income tax purposes.

The definition of initiative contributions does not include:

- services provided by a volunteer;
- property of a volunteer, if the property is provided or used in relation to the services of the individual as a volunteer (e.g. the use of a volunteer's car by the volunteer is not a contribution);
- publishing without charge news, an editorial, an interview, a column, a letter or a commentary in a genuine periodical publication or a radio or television program;
- broadcasting time provided, without charge, as part of a genuine public affairs program;
- producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the initiative petition or initiative vote; and
- property or services provided by an election official, a voter registration official or any other employee of the Chief Electoral Officer in that official capacity.

If property or services are provided to an authorized participant at less than market value, the difference between the market value and the amount charged is an initiative contribution.

If an authorized participant provides goods or services to an organization or individual at greater than market value, the difference between the market value and the price paid is an initiative contribution.

“Market value” is the lowest price charged for an equivalent amount of equivalent property or services in the market area at the time the property or services are provided. Payable tax (G.S.T. and P.S.T.) for equivalent goods or services should be included in the calculation of market value.

All initiative contributions must be recorded and appropriately reported, regardless of when the contribution was received. Initiative contributions may be received weeks, or even months, before a proponent has even applied for a petition. Such contributions are still initiative contributions and must be recorded and disclosed.

Initiative contributions of over \$100 must be made by cheque, money order or credit card with the name of the contributor clearly shown. Cash contributions of over \$100 cannot be accepted.

Volunteers

Volunteers are individuals who voluntarily perform the services and who receive no compensation, directly or indirectly, in relation to the services or the time spent providing the services. This means that employers cannot continue to pay people while they are working as volunteers. If they do continue to get paid, they are not volunteers and the value of their services is a contribution from their employer and an initiative expense.

If an individual uses paid vacation time to work on a campaign they will be considered a volunteer as long as they have not been directed by their employer to provide the services and the employer does not provide any extra vacation or leave.

Contributions to own campaign

s. 36, 65 Money that an authorized participant provides to their own initiative petition or initiative vote campaign is treated like any other initiative contribution, and it must be recorded and disclosed as such.

This means that any money a proponent, proponent group, opponent or opponent group contributes to their own campaign must be given to the financial agent. The financial agent is required to ensure that the money is deposited in the initiative account in a savings institution. Funds may be withdrawn from that account to pay any of the initiative expenses.

If the authorized participant is an individual, any property or services that they provide to their own initiative campaign is not an initiative contribution. This does not apply to authorized participants that are organizations, or members of a proponent group or opponent group.

Fundraising functions

s. 38, 65 Section 38 of the *Recall and Initiative Act* provides special rules for fundraising functions. These special rules define what is, and what is not, an initiative contribution with respect to fundraising events.

Rules for Dinners, etc.

If an **organization** buys a ticket to a fundraising event held in relation to an initiative petition or initiative vote, the price paid is an initiative contribution. If the organization buys fundraising tickets and provides those tickets to other individuals for those individuals to attend the fundraising function, the organization is still the contributor for the purposes of the *Recall and Initiative Act*.

If an **individual** buys a ticket to a fundraising function and the ticket price is more than \$50, the individual is making an initiative contribution equal to the price of the ticket. If the price is \$50 or less, the price paid is not an initiative contribution. If the ticket price is \$50 or less, an individual may buy up to \$250 worth of tickets without it being considered an initiative contribution. If an individual is buying tickets to give to other individuals to attend the fundraising function, the person buying the tickets is still the contributor for the purposes of the *Recall and Initiative Act*.

Rules for auctions, garage sales, etc.

If property or services are donated for sale at a fundraising function, are actually sold at the function and have a market value of \$250 or less, the property or services are **not** considered initiative contributions.

If property or services are purchased at a fundraising event at greater than market value, the difference between the price paid and the market value is an initiative contribution.

Example:

A proponent is holding a garage sale to raise funds. If an individual donates a television worth \$75 for sale at the garage sale, the individual donating the television is not making a contribution.

If the television is sold at the garage sale for \$75 or less, the purchaser of the television is not making a contribution. If the television is sold for \$275, the purchaser is making an initiative contribution of \$200.

Anonymous contributions

s. 41, 68 An anonymous contribution means that the recipient does not know who made the contribution. An individual cannot request that a contribution be accepted and reported as an anonymous contribution. Anonymous contributions are not permitted unless the contribution is made in response to a general solicitation for funds (“passing the hat”) made at a function held by or on behalf of an authorized participant **and** if the amount contributed by an individual has a value of **less than \$50**.

Individuals wishing to donate \$50 or more cannot do so anonymously, and should give the contribution directly to the financial agent, or place a personal cheque in “the hat” rather than cash, or put the contribution in an envelope with the date, the amount contributed, and the contributor’s name and address printed on the envelope.

When accepting contributions made anonymously at a function, the financial agent is required to record a description of the function at which the contributions were collected, the date of the function, the number of people at that function, and the total amount of anonymous contributions accepted.

Authorized participants may want to consider having someone supervise the “passing of the hat” to ensure that no one places a \$50 bill or more in the hat. If there is a total of \$50 or more per individual in attendance contributed anonymously, the total amount collected by passing the hat will be considered a prohibited contribution. Prohibited contributions must be returned to the contributors or sent to the Chief Electoral Officer for remittance to the Consolidated Revenue Fund.

Example:

If 30 people were in attendance at an event where anonymous contributions were accepted and \$1,500 was received, the entire \$1,500 would be a prohibited contribution.

Anonymous contribution limit

s. 43, 69 The amount of anonymous contributions that an authorized participant can accept in relation to an initiative petition is limited to a total of \$5,000. An authorized participant may not accept more than \$10,000 in

anonymous contributions in relation to an initiative vote.

Valuing property (goods) and services

s. 40, 67

If property (goods) or services are donated at no cost, the value of the contribution is the market value of the goods and services. The “market value” is the lowest price charged for an equivalent amount of equivalent property or services in the market area at the time the property or services are provided. Payable tax for equivalent goods or services (G.S.T. and P.S.T.) should be included in the calculation of market value of donated goods or services.

Example:

If a printer provides brochures for free, the fair market value would be what the printer would normally charge, including taxes, for those brochures.

When capital assets are donated, the contribution is the value of using the property.

Example:

If a landlord provides office space at no charge, the landlord is making a contribution equal to the market value of renting the office space.

If free advertising space in a periodical publication (magazines, newspapers, etc.) or free broadcast time is provided equitably to all authorized participants for an initiative petition or an initiative vote, the value of the advertising is considered nil.

Discounted property (goods) and services

s. 36, 65

If someone gives an authorized participant a discount on property (goods) or services, by offering them at less than market value, then that person is considered to have made an initiative contribution equal to the difference between the market value and the amount charged.

Example:

A printer gives a proponent a preferred rate on signs. The signs would normally cost \$1,500, but the printer only charges the proponent \$1,000. The printer's contribution is valued and recorded as \$500.

Prohibited contributions

s. 44, 70 If a prohibited contribution is received (for instance, \$40 cash anonymously by mail) the contribution must be returned. If it is not possible to return the contribution to the contributor, it must be turned over to the Chief Electoral Officer for remittance to the Consolidated Revenue Fund. Financial agents must keep a record of prohibited contributions and how each instance was resolved.

Prohibited initiative petition contributions must be returned within 14 days after the financial agent becomes aware of the contravention.

Prohibited initiative vote contributions must be returned within 30 days after the financial agent becomes aware of the contravention.

Loans

s. 37, 65 Loans to an authorized participant are generally not considered to be initiative contributions. However, a loan does become an initiative contribution if it is forgiven or written off. Additionally, if a loan is given with a preferential interest rate, the benefit derived from that preferential rate is an initiative contribution. A preferential interest rate is a rate of interest that is less than the prime rate of the principal banker to the government of B.C.

Debts

s. 37, 65 If an authorized participant has any debts that remain unpaid for six months after they become due, and no legal proceedings to recover the debt have been commenced by the creditor, the amount of the unpaid debt becomes an initiative contribution and must be recorded as such. If the initiative financing report has already been filed, a supplementary report must be filed with Elections BC.

Recording requirements for contributions to authorized participants

s. 45, 71

The financial agent is required to record the following information for each initiative contribution made to the authorized participant, whatever the value of the contribution:

- the full name and address of the contributor;
- the value of the contribution;
- the date on which the contribution was made;
- the class of the contributor; and
- if the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the financial agent is also required to record the full names and addresses of at least two individuals who are directors, principal officers, or principal members of the organization.

The classes of contributors are: (1) individuals; (2) corporations; (3) unincorporated organizations engaged in business or commercial activity (includes sole proprietors and partnerships); (4) trade unions; (5) non-profit organizations; and (6) other contributors.

For **fundraising events** held by or on behalf of an authorized participant, the financial agent is required to record:

- a description of the function;
- the date of the function; and
- the cost, gross income and the net income or loss arising from the function.

In relation to all **anonymous contributions** received, the financial agent must record:

- a description of the function;
- the date of the function;
- the number of people in attendance; and
- the total amount of anonymous contributions received.

Initiative Expenses

Expenses limits for initiative proponents and proponent groups

s. 48, 74 During an initiative petition or initiative vote, the proponents and proponent groups of the initiative may not exceed the expenses limit established by the *Recall and Initiative Act*. The total value of initiative expenses which may be incurred by the proponent or proponent group is calculated according to the number of registered voters on the provincial voters list as of the date on which the petition is issued or initiative vote period begins.

For an initiative petition, the expenses limit for the proponent is \$0.25 cents per registered voter. For an initiative vote, the total collective expenses limit for all proponents and proponent groups is \$1.25 per registered voter.

The expenses limit may be adjusted by the Chief Electoral Officer to reflect changes in the Consumer Price Index.

The Chief Electoral Officer directly advises the financial agents of their expenses limit and publishes the amount in the *British Columbia Gazette*.

Expenses limits for initiative opponents and opponent groups

s. 48, 74 Initiative opponents and opponent groups share an equivalent expenses limit collectively to that of the proponents and proponent groups.

The Chief Electoral Officer directly advises the financial agents of the opponent and/or opponent group of their expenses limits and publishes the amount in the *British Columbia Gazette*.

Effect of incurring expenses over limit

s. 53, 79 If the proponents or proponent groups exceed the expenses limit, the initiative petition or initiative vote fails and they must pay to the Chief Electoral Officer a penalty of double the amount by which the expenses exceed the limit. Members of a proponent group are jointly and separately liable to pay the penalty.

If the total initiative petition or initiative vote expenses of an opponent or opponent group exceed their expenses limit, the opponent or members of the opponent group are jointly and separately liable to pay to the Chief Electoral Officer a penalty of 10 times the amount by which the expenses exceed the limit.

Initiative expenses

- s. 39, 46, 66, 72 No individual or organization may incur an initiative expense unless they are an authorized participant or a registered initiative advertising sponsor. Unauthorized individuals or organizations that incur initiative expenses are subject to significant penalties.

An initiative petition expense is the value of property or services used during an initiative petition period to promote or oppose, directly or indirectly, an initiative petition or draft Bill.

An initiative vote expense is the value of property or services used during an initiative vote period to promote or oppose, directly or indirectly, an initiative in relation to an initiative vote.

These definitions mean that anything used in an initiative petition period or initiative vote period is an initiative expense, even if the item was purchased before the initiative petition period or initiative vote period commenced.

Example:

An individual buys 1000 posters at a cost of a \$1 each six months before the initiative vote. During the initiative vote period, only 800 posters are used. The initiative vote expense with respect to the posters is the value of the 800 posters used (i.e. \$800).

Certain expenses are not considered to be initiative expenses. Any goods that an authorized participant who is an individual produces from their own property are excluded from the definition of an initiative expense. This does not apply to individuals who are members of a proponent or opponent group.

Services and property provided by a volunteer, and the goods produced by a volunteer from the property of

that individual are not considered initiative expenses.

Volunteers are individuals who voluntarily perform the services and who receive no compensation, directly or indirectly, in relation to the services or the time spent providing the services. This means that employers cannot continue to pay people while they are working as volunteers. If they do continue to get paid, they are not volunteers and the value of their services is a contribution from their employer and an initiative expense.

If an individual uses paid vacation time to work on a campaign they will be considered a volunteer as long as they have not been directed by their employer to provide the services and the employer does not provide any extra vacation or leave.

Expenses not subject to expenses limits

s. 47, 73

Some expenses are not included as initiative petition expenses or initiative vote expenses for the purposes of determining whether an authorized participant has complied with the applicable expenses limit. The following expenses must be reported, but do not count against the allowable expenses limit. Those expenses are:

- fees charged by the Chief Electoral Officer under the *Recall and Initiative Act*;
- costs incurred for producing copies of the petition for gathering signatures;
- legal or accounting services provided to comply with this Act;
- services provided by a financial agent in that capacity;
- expenses incurred in holding a fundraising function if no deficit is incurred;
- interest on a loan for initiative expenses to an authorized participant; and
- the cost of any communication that an authorized participant that is an organization sends exclusively to its members.

An expense excluded for the purpose of determining whether an authorized participant is in compliance with the applicable expenses limit remains an initiative expense and is subject to all other provisions of the Act.

Additional rules about initiative expenses

- s. 29, 34, 46, 59, 64, 72 All expenditures must be paid from money held in an account established for that purpose in a savings institution. Additionally, other than a registered initiative advertising sponsor, only a financial agent, an assistant financial agent or an individual authorized in writing by a financial agent can incur an initiative expense.

Recording expenses

- s. 34, 64 The financial agent must make every reasonable effort to ensure that all expenditures greater than \$25 are documented by a statement setting out the particulars of the expenditure (e.g. an invoice or a bill).

The financial agent must also keep track of initiative contributions of property (goods) and services that are used by the authorized participant.

Example:

If a printer donates leaflets worth \$1,000 and the leaflets are used in an initiative petition or vote period, the financial agent would record an initiative expense of \$1,000, as well as recording that the printer made a \$1,000 contribution. If only half of those leaflets were used, the initiative expense would be recorded as \$500, although it would still be reported that the printer made a \$1,000 contribution.

Initiative Petition/Initiative Vote Financing Reports**Initiative financing reports**

- s. 50, 76 The financial agent is required to file an initiative financing report on an authorized participant's behalf.

An initiative petition financing report must be filed with the Chief Electoral Officer within 28 days after the end of the initiative petition period.

An initiative vote financing report must be filed with the Chief Electoral Officer within 90 days after the end of the initiative vote period.

If a proponent fails to file an initiative petition financing report, the initiative petition fails. Failure to file an initiative vote financing report on behalf of the proponent or proponent group will result in failure of the initiative vote.

Additional requirements for financing reports

s. 50, 76 Initiative financing reports must be prepared in accordance with generally accepted accounting principles and must be filed with a solemn declaration of the financial agent as to its accuracy.

If any of the information required to be contained in a financing report changes, or if an authorized participant should discover that the report did not completely and accurately disclose the required information, a supplementary report must be filed with the Chief Electoral Officer within 14 days for an initiative petition financing report, and within 30 days for an initiative vote financing report after the financial agent or authorized participant becomes aware of the incompleteness or inaccuracy.

Auditing of reports

s. 50, 76 After examining an initiative financing report, the Chief Electoral Officer may require the report to be audited at the expense of the authorized participant and may establish a time limit by which the financial agent must provide the report to the Chief Electoral Officer.

Public inspection of initiative financing reports

s. 50, 76 Initiative financing reports are available for public inspection at the Chief Electoral Office in Victoria during its regular office hours, as well as on the Elections BC website.

Late filing of reports

s. 55, 81 If a financial agent fails to file an initiative financing report by the deadline, there is a late filing period. The Act allows the report to be late up to 30 days after the original deadline if a late filing fee of \$500 is paid to the Chief Electoral Officer.

The late filing fee must be received with the late report and must be in a form of cash, money order or certified cheque payable to the Minister of Finance.

Failure to file an initiative financing report

- s. 56, 82 If an initiative financing report for a proponent or proponent group is not filed before the end of the late filing period, the petition or vote automatically fails and the proponent must pay a penalty of \$100 a day after the end of the late filing period until the report is filed.

If an initiative financing report for an opponent or opponent group is not filed before the end of the late filing period, the opponent must pay \$500 a day after the end of the later filing period until the report is filed.

Authorized participants who fail to file initiative financing reports are prohibited from applying for any initiative petition or from acting as a financial agent until the report is filed and the financial penalties are paid.

Court relief from filing obligations

- s. 57, 83 An authorized participant may apply to the Supreme Court of B.C. for relief from the obligation to file an initiative financing report. The application must be made before the end of the 30 day late filing period or, if the relief sought is in relation to a supplementary report, within 14 days for an initiative petition or 30 days for an initiative vote after the authorized participant becomes aware of the change, incompleteness or inaccuracy of the report.

False or misleading reports

- s. 58, 84, 162 It is an offence to file a false or misleading report and if convicted, an individual is liable to a fine of up to \$10, 000 and/or imprisonment for up to two years.

If a proponent is convicted, the initiative petition or vote fails.

Initiative Advertising

“Initiative advertising” is advertising used during an initiative petition period to promote or oppose, directly or indirectly, the initiative petition or draft Bill; or advertising used during an initiative vote period to promote or oppose, directly or indirectly, the initiative. This includes all forms of advertising, such as media advertising, brochures, signs, websites, etc.

Initiative advertising can only be conducted by an authorized participant or a registered initiative advertising sponsor. Initiative advertising sponsors should refer to the Guide to Initiative Communications for more detailed information regarding the requirements of the *Recall and Initiative Act*.

Sponsorship of initiative advertising

s. 86

The sponsor of initiative advertising is the individual or organization who pays for the advertising, who receives the advertising as a contribution, or has initiative advertising conducted on their behalf.

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

Registration of initiative advertising sponsors

s. 96, 97

Individuals or organizations, other than the authorized participants, who intend to sponsor initiative advertising must register with the Chief Electoral Officer. An application must be made on the specified application form and include the following information:

- the full name of the applicant and, in the case of an applicant organization that has a different usual name, this usual name;
- the full address of the applicant;
- in the case of an applicant organization, the names of the principal officers of the organization or, if there are no principal officers, of the principal members of the organization;

- an address at which notices and communications under the Act and other communications will be accepted as served on or otherwise delivered to the individual or organization;
- a telephone number at which the applicant can be contacted; and
- identification of the initiative petition in relation to which the applicant wants to be a registered advertising sponsor.

People eligible to sign an application are:

- the individual applicant; or
- if the applicant is an organization, two principal officers of the organization; or
- if an applicant organization has no principal officers, two principal members of the organization.

Applications must include a solemn declaration by one of the individuals who signed the application, stating that the applicant is not prohibited from being registered by s. 99 (exceeded an initiative advertising expense limit or failed to file an initiative advertising disclosure report).

If an information contained in an application for registration as a sponsor changes, the change must be made in writing and filed with the Chief Electoral officer within 15 days after it occurs.

Initiative advertising limits

s. 93

A registered initiative advertising sponsor, other than an authorized participant, must not sponsor initiative advertising during an initiative petition or initiative vote period that has a value of more than \$5,000. This includes initiative advertising sponsored in combination with other individuals or groups.

The value of documents that are initiative advertising but that are sent directly to the registered advertising sponsor's members, shareholders or employees is not included in the \$5,000 limit.

Initiative advertising must identify sponsor

s. 88 Initiative advertising must not be conducted (or published) unless it:

- identifies the name of the sponsor;
- 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* (not necessary for authorized participants);
- for sponsors that are numbered corporations or unincorporated organizations, indicates the name of an individual who is a director or principal member; 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.

Examples:

Authorized by Jane Doe, financial agent, (250) 123-1234;

Authorized by Jane Doe Company, registered sponsor under the Recall and Initiative Act, (250) 123-1234;

or

Authorized by Small Partnership, Jane Doe, registered sponsor under the Recall and Initiative Act, (250) 123-1234

Sponsors, including authorized participants, must make someone available to answer questions from the public that are directed to the address or telephone number indicated on the advertising.

Restrictions on rates charged for initiative advertising

s. 89 Individuals and organizations must not charge a rate for initiative 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 period.

Initiative advertising disclosure reports

- s. 100, 101, Sponsors, other than authorized participants, must file advertising disclosure reports if the value of their
102, 103, initiative advertising exceeds \$500 during the initiative petition period or an initiative vote period. Disclosure
104 reports must be filed with the Chief Electoral Officer. In the case of initiative advertising during an initiative
petition period, the report must be filed within 28 days after the end of the initiative petition period. In the case
of initiative advertising during an initiative vote period, the report must be filed within 90 days after the end of
the initiative vote period.

Should the information required to be disclosed change, or the sponsor becomes aware of an inaccuracy, the sponsor must file a supplementary report within 14 days after the sponsor becomes aware of the change or inaccuracy with regard to initiative petition advertising or within 30 days in relation to initiative vote advertising.

An initiative advertising sponsor disclosure report must be on forms provided by Elections BC and must include the following information:

- the value of the initiative advertising sponsored by the sponsor, reported by class;
- for initiative petitions, the amount of contributions accepted by the sponsor during the period beginning six months before the initiative petition was issued and ending at the end of the initiative petition period;
- for initiative votes, the amount of contributions accepted by the sponsor during the period beginning six months before General Voting Day and ending at the end of the initiative vote period; and
- any amount of the sponsor's assets, other than assets received by way of contributions reported under the previous paragraphs, that was used to pay for the initiative advertising sponsored by the sponsor.

Amounts accepted from contributors must be reported separately for each of the following classes of contributor:

- (1) individuals;
- (2) corporations;
- (3) unincorporated organizations engaged in business or commercial activity;
- (4) trade unions;

- (5) non-profit organizations;
- (6) other identifiable contributors; and
- (7) anonymous contributors.

For anonymous contributions the initiative advertising disclosure report must include the dates on which the contributions were received, the amounts received on each date and, if applicable, the events at which they were received.

If the records of the sponsor indicate that, during the period for which contributions are required to be reported, a contributor made one or more contributions of money that, in total, have a value of more than \$250 or a higher amount established by regulation, the report must include the following information:

- the full name of the individual;
- the class of the contributor;
- if the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names and addresses of at least two individuals who are directors, principal officers or principal members of the organization; and
- the value of each contribution and the date on which it was made.

Late filing of reports

- s. 102 Upon payment of a \$500 late filing fee, a sponsor may file a report during the late filing period. The late filing period is 30 days from the original filing deadline.

Failure to file reports

- s. 103 If an initiative advertising report is not filed with the Chief Electoral Officer at the end of the late filing period, the sponsor:
- is deregistered as a sponsor; and
 - must pay \$500 for each day the report remains unfiled.

If the sponsor is an unincorporated organization, the members of the organization are jointly and separately liable to pay the \$500 per day penalty.

Court order for relief from filing obligations

- s. 104 A sponsor may apply to the Supreme Court to seek relief from an obligation to file an initiative advertising disclosure report or from the penalty in relation to the filing of the report.

Obligation to maintain records

- s. 105 Anyone who is, or has been, a sponsor of initiative advertising must:
- ensure that the records required to be maintained are maintained in British Columbia; and
 - retain those records for at least five years, or a longer period if specified by the Chief Electoral Officer, from the date of filing a report.

Initiative Vote Campaign Restrictions

- s. 90, 91 There are certain restrictions relating to advertising and campaigning during an initiative vote period and near voting places.

During voting hours of advance voting or general voting for an initiative vote, initiative advertising by means of a public address system or loudspeaker is not permitted within hearing distance of a voting place.

Prohibition against certain initiative advertising on General Voting Day

- s. 90 On General Voting Day for an initiative vote, there is a prohibition against conducting or sponsoring initiative advertising by publishing it in a newspaper or magazine or on radio or television. The prohibition against sponsoring initiative advertising on General Voting Day applies whether the publication is done within British Columbia or outside the province.

100-metre no campaigning zones

District Electoral Officer offices

- s. 91 During an initiative vote period, no one may post, display or disseminate any initiative advertising within 100-metres of the building where the district electoral office is located.

If any contravening material is posted or displayed, etc., within the 100-metre no campaigning zone, the District Electoral Officer may enter the property where the materials are located and remove, cover or otherwise obscure them from view.

Voting places

- s. 91 While advance voting or general voting for an initiative vote is being conducted at a voting place, there is a 100-metre no campaigning zone around the building where the voting is being conducted.

Within this 100-metre zone, an individual or organization must not:

- post, display or disseminate any initiative advertising;
- canvass or solicit votes or otherwise attempt to influence how a voter votes;
- carry, wear or supply a flag, badge or anything indicating that the individual using it is a supporter of a particular response to an initiative; and
- post, display, disseminate or openly leave a representation of a ballot marked for a particular response to an initiative.

Initiative campaign signs

The sign policy of the Ministry of Transportation does not allow the placement of initiative campaign signs along provincial highways.

There may be additional rules at the municipal level regarding where signs may be placed. Authorized participants and initiative advertising sponsors are advised to check for municipal by-laws regulating the placement of signs in any municipality where they wish to erect signs.

Initiative Opinion Surveys

- s. 85. 92 “Initiative petition survey” means an opinion survey respecting an initiative petition, draft Bill or initiative vote, including a matter publicly discussed in relation to the initiative petition, draft Bill or initiative vote.

The Supreme Court of British Columbia found that previous provisions regarding opinion surveys under the *Election Act* were 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 initiative opinion survey methodology is not enforceable.

Questions?

For more information

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