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May 5, 2025

Mr. Shane Getson, MLA
Chair, Standing Committee on Legislative Offices
c/o Jody Rempel, Committee Clerk

via email: jody.rempel@assembly.ab.ca

Dear Mr. Getson:

Subject: Bill 54: *Election Statutes Amendment Act*

I write with respect to Bill 54: *Election Statutes Amendment Act*, which was introduced on Tuesday, April 29, 2025. My Office has had the opportunity to review Bill 54 after first reading and assess the impacts that the Bill will have on Albertans.

I am pleased that some of my predecessor's recommendations, set out in the Chief Electoral Officer's Report on the 2023 Provincial General Election and the 2021 Senate Election and Referendum Vote, have been included in Bill 54. These include amendments respecting some elements of special ballot voting, terminology used regarding identification, and communications when there is a need to change voting places.

However, I must urgently communicate other proposed amendments, if passed, will deteriorate the service provided to electors, compromise Albertan's trust in the democratic process, and remove elements of transparency and accountability. The most notable areas of concern include the elimination of vote anywhere, the elimination of vouching, the change to timelines associated with special ballots, and the reduction of the Election Commissioner's ability to undertake investigations.

I have attached detailed information on the impact of the proposed amendments and the specific concerns that Elections Alberta has with Bill 54. Where possible, my Office has provided supporting data, references to legal authorities, and additional information to illustrate the likely consequences of the proposed changes.

The Legislative Assembly may wish to consider amendments to the areas listed above to ensure that all Albertans have access, trust, and confidence in the election process, including the political participants who actively participate throughout the process. My Office is happy to support the Assembly if, upon further review and reflection, it determines that additional amendments are warranted.

I believe it is essential that members of the Legislature have a detailed understanding of how the proposed changes will impact Albertans and adversely impact the ability of Elections Alberta to effectively investigate and enforce compliance with a whole suite of electoral legislation.

I appreciate your consideration of Elections Alberta's request, and your ongoing commitment to supporting a fair, transparent, and impartial electoral process.

Sincerely,

A handwritten signature in black ink, appearing to be 'G. McClure', written in a cursive style.

Gordon McClure
Chief Electoral Officer

Attachment

/jvh

Summary of Comments to Bill 54: Election Statutes Amendment Act

The Elimination of Vote Anywhere

Background

- Vote Anywhere is the process that allows electors to cast their ballot in any electoral division at any advance voting location across Alberta. It is the single most enfranchising advance in Alberta's electoral history.
- Vote Anywhere was widely used in 2019 and 2023 resulting in over 390,000 ballots being cast outside of a voter's electoral division during the advance voting period.
- Advance voting continues to increase in popularity with 234,659 ballots cast in advance voting during the 2015 Provincial General Election, to 757,453 ballots cast in advance voting during the 2023 Provincial General Election.

Proposed Changes Under Bill 54

- Bill 54 will remove the ability of Elections Alberta to offer "Vote Anywhere". Section 6(22)(c) states "An Elector may vote at an advance voting place only in the electoral division where the elector is ordinarily resident, with limited exceptions."

Benefits and Examples of Use

- Vote Anywhere allows for electors temporarily residing outside of their place of ordinary residence, including students and electors working at work camps across Alberta, to have the opportunity to cast their ballot in person during advance vote.
- Without the use of Vote Anywhere during the 2023 Provincial General Election, there were five electoral divisions where the election would have had to be discontinued due to the inability to host voting in the electoral division, or electors being displaced by wildfires.
- The Vote Anywhere service allowed Elections Alberta to act quickly and ensure that even those electors who were displaced, had an opportunity to cast their ballot. Election workers were able to access the List of Electors for the entire province and print ballots on demand for each elector at any advance voting location.
- The benefit of Vote Anywhere can extend long after the disaster itself, for example by allowing individuals displaced from their homes to vote at any advance voting location. This is currently a live issue for displaced residents of Jasper for the 2025 municipal elections.

The Elimination of Vouching as a Form of Identification

Background

- Approximately 0.6% of the total votes cast in the 2023 Provincial General Election used the vouching process to prove identification. Elections Alberta data identified that vouching was used as a form of identification for 0.4% of voters in Calgary and Edmonton, and for 0.8% of voters outside the two major urban centres.

Proposed Changes Under Bill 54

- Vouching will no longer be available as a form of identification. Sections 6(26), 6(28) and 6(29) will repeal sections 100.3, 100.5 and 100.6 respectively (Elector on the voting record without identification; Elector without identification not on voting record; and Declarations and vouching).

Impact on Albertans

- Vouching is critical to the enfranchisement of all voters, but particularly those in rural Alberta, seniors, vulnerable Albertans, and those who may have no fixed address.
- Limitations on proving eligibility, including further restrictions on identification, will present barriers for some electors to access their right to vote. Changing identification requirements and imposing barrier to voting will engage section 3 of the *Charter* (see for example *Council of Canadians v Canada (Attorney General)*, 2015 ONSC 4601 where the ability to utilize vouching as a form of identification saved legislation that was found to violate section 3).

Timelines for Issuing and Receiving Special Ballots

Background

- Special ballots are an important tool to increase access for electors. Elections Alberta supports removing reasons to request a special ballot, and to allow for mailing of packages to members serving in the Canadian Military, temporarily residing outside of Canada, and in areas designated remote.

Impact on Albertans

- The proposed amendments include additional provisions that will create barriers to access and limit the use of special ballots.
 - The timelines for Special Ballots are already short, notably the mailing of packages to electors. Although the proposed amendments assist with mailing outside of Canada, the timelines are further condensed with the proposed as packages cannot be mailed to domestic addresses until the writs are issued.
 - Moving the deadline to apply for special ballots to the Friday prior to advance voting results in packages only being permitted to be sent for a period of 18 days in the 28-day election calendar.

- Below is a timeline for special ballots based on the proposed amendments:
 - Writ of Election – September 20, 2027
 - Domestic packages may begin to be mailed.
 - Special ballot applications close - October 8, 2027
 - Thanksgiving Holiday – October 11, 2027
 - No packages generating from applications received on October 8, 2027 can be mailed.
 - Completed special ballots packages must be received – October 15, 2027
 - Special ballot packages processed – October 17, 2027
 - Election Day – October 18, 2027

- Proposed amendments require all special ballots to be mailed to an address specified by the Chief Electoral Officer for an electoral division. The requirement impacts those electors who may require access to a secure special ballot. Typically, these electors apply and complete the process in person to show their identification directly to a returning officer and remain off the list of electors. This process protects electors in vulnerable situations where having their name included on the list of electors could reasonably impact their safety and security as outlined in section 116.1 of the *Election Act*.

- Lastly, the deadline for applications negatively impacts electors who may have a situation arise during advance voting that prevents them from voting in either advance or election day. Given the deadline for application is the Friday prior to advance vote, there is no reasonable access for these electors to cast a ballot.

Reducing the Limitation Period for Investigations to One Year From Date of Conduct

Proposed Changes Under Bill 54

- Section 6(51) and 7(59) will shorten the time period during which the Election Commissioner can impose an administrative sanction from three years to one year from the date of the alleged conduct. This change will eliminate most substantive financial investigations and remove the related compliance functions performed by the Election Commissioner.
- Most complaints related to financial compliance are not received by Elections Alberta within a year of the conduct in question. One reason for this is that many financial reports are not due to be filed until several months after an election event. For example, under section 43 of the *Election Finances and Contributions Disclosure Act* (EFCDA), the deadline for a registered party to file a campaign report is six months after election day. For complaints received within one year of the date of the alleged conduct, Bill 54 adds additional procedural requirements which will necessarily lengthen the investigative process.

Impact on Albertans

- The proposed changes will impact Albertans' trust that the rules governing election financing are being followed. None of the significant investigations undertaken by the

Election Commissioner in the last five years would have been completed if this reduced time period had been in place. Several current investigations will not be completed.

- The proposed amendments will eliminate investigations into the majority of over-contributions. Financial contribution limits are based on annual maximums, which means that most over-contributions cannot be determined until the end of the calendar year when registered parties issue contribution receipts. Practically, this means that over-contributions and prohibited contributions made earlier in a calendar year have no chance of being investigated within the required timeframe.
- In cases where there is time to investigate, the reduced timelines will require the Election Commissioner to take more aggressive positions regarding scheduling interviews and document production. The Election Commissioner will be required to issue formal notices to attend more frequently and enforce those notices aggressively in court. This will be a marked departure from the current practice of working collaboratively with parties and their legal counsel.

Changing the Threshold For Investigation to the Criminal Law Standard of “Reasonable Grounds”

Background

- Bill 54 will introduce a new threshold of “reasonable grounds to investigate” in sections 44.951, 44.95 (b) and 44.96. “Reasonable grounds” is akin to the criminal law standard for arrest; however, under Bill 54 this will be the standard for the Election Commissioner to start an investigation.
- Under Bill 54, for an investigation to begin, the Election Commissioner will need to be satisfied that a breach of the Legislation has occurred, before they can speak to anyone about the allegation, or gather and review any records. Practically, this means that the onus will fall on a complainant to provide a substantively completed investigation in order for the Election Commissioner to look into a matter.

Impact on Albertans

- The proposed changes will eliminate the majority of the compliance activities undertaken by the Election Commissioner and impact Albertans’ trust that the rules governing election financing are being followed. None of the substantive investigations of the last five years could have been initiated if this threshold had been in place. We are not aware of any other jurisdiction in Canada that has imposed a similar standard to initiate investigations.
- The same impact will flow from the corresponding amendment to section 153.09(1) of the *Election Act*.

Role of the Election Commissioner on Appeal

Background

- The proposed changes to EFCDA section 51.03(6.1) and *Election Act* section 153.3(6.1) impose a positive obligation on the Election Commissioner to “defend” their decision before the Courts. Currently, the Election Commissioner does not oppose the merits of an appeal. When an administrative penalty is appealed, the Election Commissioner appears before the Court to provide the record of the decision and answer the Court’s questions about the statutory scheme.

Impact on Albertans

- Forcing the Election Commissioner to take a position and act as a “quasi-prosecutor”, as opposed to a neutral decision maker is unseemly, and risks the appearance that the Election Commissioner is acting in a partisan manner to oppose political participants.
- Under the current scheme, it is the Court that evaluates whether a decision by the Election Commissioner is logical, rational and supported by sufficient evidence in the record to be upheld. If a decision does not meet those requirements, the court will overturn it.