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FIRST READING

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HONOURABLE PETER FASSBENDER
MINISTER OF COMMUNITY, SPORT AND
CULTURAL DEVELOPMENT AND MINISTER
RESPONSIBLE FOR TRANSLINK

BILL 43 – 2015

LOCAL ELECTIONS CAMPAIGN FINANCING (EXPENSE LIMITS) AMENDMENT ACT, 2015

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Explanatory Note

SECTION 1: [*Local Elections Campaign Financing Act, section 5*] is consequential to amendments made to the Act by this Bill.

1 Section 5 (2) of the Local Elections Campaign Financing Act, S.B.C. 2014, c. 18, is amended by striking out "one jurisdiction" and substituting "one election area" and by striking out "each of the jurisdictions" and substituting "each of the election areas".

Explanatory Note

SECTION 2: [*Local Elections Campaign Financing Act, sections 7 and 8*] is consequential to amendments made to the definitions in the Schedule to the Act by this Bill.

2 Sections 7 (1) and 8 (1) (a) are amended by striking out "the election proceedings period" and substituting "the campaign period".

Explanatory Note

SECTION 3: [*Local Elections Campaign Financing Act, section 10*]

- is consequential to amendments made to the definitions in the Schedule to the Act by this Bill;
- shortens the length of the campaign period;
- sets out the spending limit period.

3 Section 10 is repealed and the following substituted:

Relevant periods

10 (1) The election period in relation to an election is the period that

(a) begins, as applicable,

(i) in the case of an election that is part of a general local election, at the start of the calendar year in which the election is held,

(ii) in the case of a by-election, on the day of the local authority office vacancy that is to be filled by the by-election, or

(iii) in the case of any other election, on the date specified by or determined under the regulations, and

(b) ends at the beginning of the campaign period for the election.

(2) The campaign period in relation to an election is the period that

(a) begins on the 28th day before general voting day for the election, and

(b) ends, as applicable,

(i) in the case of an election by voting, at the close of general voting for the election, or

(ii) in the case of an election by acclamation, at the end of general voting day.

(3) The spending limit period in relation to an election is the period that

(a) begins, as applicable,

(i) in the case of an election that is part of a general local election, at the start of the calendar year in which the election is held,

(ii) in the case of a by-election, on the day of the local authority office vacancy that is to be filled by the by-election, or

(iii) in the case of any other election, on the date specified by or determined under the regulations, and

(b) ends, in the case of an election by voting, at the close of general voting for the election and, in the case of an election by acclamation, at the end of general voting day.

(4) The assent voting proceedings period in relation to non-election assent voting is the period that

- (a) begins on the 28th day before general voting day for the assent voting, and
- (b) ends at the close of general voting for the assent voting.

Explanatory Note

SECTION 4: [*Local Elections Campaign Financing Act, section 13*] is consequential to amendments made to the definitions in the Schedule to the Act by this Bill.

4 Section 13 (2) is amended by striking out "a campaign period" and substituting "a spending limit period".

Explanatory Note

SECTION 5: [*Local Elections Campaign Financing Act, section 14*]

- clarifies that the election expense is in relation to an election;
- sets out items that are not election expenses but must be disclosed;
- sets out what personal expenses are.

5 Section 14 is amended

(a) by repealing subsection (1) and substituting the following:

(1) Subject to this section and any applicable regulations, an election expense in relation to an election is the value of property or services used in an election campaign. , and

(b) by adding the following subsections:

(6) Subject to any applicable regulations, the value of each of the following is not an election expense, but must be disclosed in accordance with Division 2 [*Disclosure Requirements for Candidates, Elector Organizations and Advertising Sponsors*] of Part 5 [*Transparency Requirements for Local Elections and Assent Voting*]:

(a) personal expenses within the meaning of subsection (7) in relation to a candidate;

(b) legal or accounting services provided to comply with this Act and the regulations under this Act;

(c) services provided by a financial agent in that capacity;

(d) the cost of any communication that an elector organization transmits exclusively to its members;

(e) property and services used exclusively for the day-to-day administration of an elector organization office that operates on a continuing basis outside of spending limit periods,

including salaries and wages paid by the elector organization to permanent staff of the elector organization;

(f) interest on a loan to a candidate or elector organization for spending limit expenses;

(g) any other expenses prescribed by regulation.

(7) The following expenses, if they are reasonable, are personal expenses in relation to a candidate:

(a) payments for care of a child or other family member for whom the candidate is normally directly responsible;

(b) the cost of the candidate travelling to, within or from the election area;

(c) the cost of lodging, meals and incidental charges in relation to the candidate while travelling as referred to in paragraph (b);

(d) expenses in relation to any disability of the candidate, including the costs in relation to any individual the candidate requires to assist the candidate in performing the functions necessary for seeking election;

(e) any other expenses prescribed by regulation in relation to candidates.

Explanatory Note

SECTION 6: [*Local Elections Campaign Financing Act, section 15*] establishes what election period expenses, campaign period expenses and spending limit expenses are.

6 Section 15 is repealed and the following substituted:

What are election period expenses, campaign period expenses and spending limit expenses

15 Subject to any applicable regulations,

(a) an election period expense in relation to an election is an election expense that is incurred during the election period,

(b) a campaign period expense in relation to an election is an election expense that is incurred during the campaign period, and

(c) a spending limit expense in relation to an election is an election expense that is incurred during the spending limit period.

Explanatory Note

SECTION 7: *[Local Elections Campaign Financing Act, section 16]* makes the provision subject to any applicable regulations.

7 Section 16 (1) is repealed and the following substituted:

(1) Subject to any applicable regulations, the rules in this section apply for the purpose of determining the value of a campaign contribution or an election expense unless otherwise expressly provided under this Act.

Explanatory Note

SECTION 8: *[Local Elections Campaign Financing Act, section 23]* is consequential to amendments made to the definitions in the Schedule to the Act by this Bill.

8 Section 23 (3) is amended by striking out "the election proceedings period" and substituting "the campaign period".

Explanatory Note

SECTION 9: *[Local Elections Campaign Financing Act, heading to Part 3]* is consequential to amendments made to the Act by this Bill.

9 The heading to Part 3 is repealed and the following substituted:

Part 3 – Third Party Advertising .

Explanatory Note

SECTION 10: *[Local Elections Campaign Financing Act, section 33]* provides how the value of shared third party advertising must be attributed.

10 Section 33 is amended by adding the following subsection:

(6) The value of shared third party advertising must be attributed to the participating individuals and organizations in accordance with the regulations.

Explanatory Note

SECTION 11: *[Local Elections Campaign Financing Act, Division 4 of Part 3]*

- establishes third party advertising limits;
- sets out prohibitions in respect of third party advertising limits;
- provides how the value of directed advertising must be attributed.

11 The following Division is added to Part 3:

Division 4 – Third Party Advertising Limits

Third party advertising limits – general local election and election held at same time as general local election

41.1 Subject to any applicable regulations, in respect of an election to which this Act applies that is held as part of a general local election or at the same time as a general local election, the following third party advertising limits for a third party sponsor apply during the campaign period:

(a) for third party advertising that is directed advertising, the third party advertising limit for an election

(i) for a mayor or councillor in relation to an election area,

(ii) for an electoral area director in relation to an election area,

(iii) for a Vancouver Park Board member in relation to an election area,

(iv) for a local trust area trustee in relation to an election area,

(v) for a trustee on a board of education in relation to an election area,

(vi) for a regional trustee on a francophone education authority in relation to an election area, and

(vii) prescribed under section 1 (1) (i) [*elections to which this Act applies*] in relation to an election area,

is determined in accordance with the regulations;

(b) in total, for third party advertising that is directed advertising or issue advertising, the third party advertising limit is the prescribed cumulative third party advertising limit.

Limits and adjustments to reflect changes in consumer price index

41.2 (1) In respect of each general local election that is called after January 1, 2019, the minister responsible for the administration of the *Local Government Act* must establish the cumulative third party advertising limit by

(a) determining the ratio between the consumer price index at July 1, 2018 and the consumer price index at July 1 of the calendar year immediately preceding the calendar year in which the election will be held, and

(b) applying the ratio determined under paragraph (a) to adjust the amount under section 41.1

(b).

(2) For the purpose of making an adjustment under this section, the minister has the discretion to determine

(a) whether to use a consumer price index prepared by the director under the *Statistics Act* (British Columbia) or a consumer price index published by Statistics Canada under the *Statistics Act* (Canada), and

(b) which consumer price index is applicable for a particular time.

Specific third party advertising limits to be made publicly available in advance of general local election

41.3 (1) By September 15 of the calendar year immediately preceding the calendar year in which a general local election will be held,

(a) the minister responsible must provide to Elections BC the third party advertising limits established under section 41.1 (a) in relation to each election area for which elections under that minister's responsibility are to be held as part of a general local election or held at the same time as a general local election, and

(b) the minister responsible for the administration of the *Local Government Act* must provide to Elections BC the cumulative third party advertising limit established under section 41.1 (b).

(2) By October 15 of the calendar year immediately preceding the calendar year in which a general local election will be held, Elections BC must make the third party advertising limits provided under subsection (1) publicly available on an Elections BC authorized internet site.

Third party advertising limits – by-election

41.4 Subject to any applicable regulations, the third party advertising limits made publicly available under section 41.3 in respect of the most recent general local election, or an election held at the same time as that general local election, in relation to an election area are the third party advertising limits for that election area.

Prohibition against third party advertising exceeding third party advertising limits

41.5 (1) Subject to subsection (2), in respect of an election,

(a) a third party sponsor must not sponsor directed advertising such that the total value of the directed advertising sponsored by the third party sponsor for any election is greater than the third party advertising limit established under section 41.1 (a) [*third party advertising limits – general local election*] in relation to the election area for which the election is held,

(b) in the case of 2 or more third party sponsors jointly sponsoring advertising, the third party sponsors must not sponsor directed advertising such that the total value of the shared directed

advertising sponsored by those third party sponsors for any election is greater than the third party advertising limit established under section 41.1 (a) in relation to the election area for which the election is held,

(c) a third party sponsor must not sponsor third party advertising that is directed advertising or issue advertising such that the total value of the third party advertising sponsored by the third party sponsor is greater than the cumulative third party advertising limit, or

(d) in the case of 2 or more third party sponsors jointly sponsoring advertising, the third party sponsors must not sponsor third party advertising that is directed advertising or issue advertising such that the total value of the shared third party advertising sponsored by those third party sponsors is greater than the cumulative third party advertising limit.

(2) The value of any prescribed class of third party advertising prescribed by regulation as being excluded is not to be included in determining whether a third party sponsor has exceeded the applicable third party advertising limit.

(3) An individual or organization that contravenes this section commits an offence.

Prohibition against attempting to circumvent third party advertising limits

41.6 (1) A third party sponsor must not circumvent or attempt to circumvent, in any manner, a third party advertising limit for the third party sponsor.

(2) An individual or organization that contravenes this section commits an offence.

Attribution of value of directed advertising

41.7 (1) If directed advertising is specifically related to one or more candidates or elector organizations, or both, in 2 or more election areas, the third party sponsor must, in accordance with the regulations, attribute the value of the directed advertising to a third party advertising limit established under section 41.1 (a) [*third party advertising limits – general local election*] in relation to each election area.

(2) An individual or organization that contravenes this section commits an offence.

Explanatory Note

SECTION 12: [*Local Elections Campaign Financing Act, section 42*] is consequential to amendments made to the Act by this Bill.

12 Section 42 (1) is repealed and the following substituted:

(1) Subject to any exceptions provided by this Act and any applicable regulations,

(a) Divisions 1 to 3 of Part 3 [*Third Party Advertising*], and

(b) any other provisions of this Act or the regulations that apply in relation to those Divisions

apply to non-election assent voting advertising during an assent voting proceedings period as if the assent voting advertising were third party advertising during a campaign period.

Explanatory Note

SECTION 13: [*Local Elections Campaign Financing Act, section 45*] provides an exception for communication on general voting day.

13 Section 45 (3) is amended by adding "any of" after "do not apply in respect of" and by adding the following paragraph:

(c.1) communication that is transmitted to the public on the internet for the sole purpose of encouraging voters to vote in the election; .

Explanatory Note

SECTION 14: [*Local Elections Campaign Financing Act, section 48*] adds a notification requirement in respect of candidates endorsed by an elector organization.

14 Section 48 (1) (b) is repealed and the following substituted:

(b) in relation to an elector organization disclosure statement, to the following:

(i) the elector organization;

(ii) the financial agent for the elector organization;

(iii) the responsible principal officials of the elector organization;

(iv) the candidates endorsed by the elector organization; .

Explanatory Note

SECTION 15: [*Local Elections Campaign Financing Act, section 49*]

- adds candidate disclosure requirements in respect of campaign period expenses and campaign financing arrangements;
- is consequential to amendments made to the Act by this Bill.

15 Section 49 is amended

(a) by repealing subsection (2) (b), (c) and (h) and substituting the following:

- (b) the election period expenses of the candidate;
 - (c) the campaign period expenses of the candidate;
 - (c.1) the spending limit expenses of the candidate;
 - (c.2) expenses of the candidate that are not election expenses but must be disclosed under section 14 (6) [*election expenses of candidates and elector organizations*];
 - (h) if applicable, that the candidate was a third party sponsor during the campaign period for the election; , and
- (b) by repealing subsection (3) and substituting the following:
- (3) In addition to the requirements under subsection (2), a disclosure statement must include the following, provided in accordance with the regulations:
- (a) for a candidate who was endorsed by an elector organization,
 - (i) a copy of the campaign financing arrangement between the candidate and the elector organization, and of any amendments to the campaign financing arrangement, regardless of whether the campaign financing arrangement was terminated by the candidate or the elector organization,
 - (ii) if the campaign financing arrangement was terminated, a copy of the documentation evidencing the termination, and
 - (iii) information respecting the following:
 - (A) transfers of property and provision of services as referred to in section 13 (6) (a) [*campaign transfers between candidates and elector organizations*];
 - (B) any other matters for which information is required by regulation;
 - (b) for a candidate who sought endorsement from an elector organization but was not endorsed, information respecting the following:
 - (i) transfers of property and provision of services as referred to in section 13 (6) (a);
 - (ii) any other matters for which information is required by regulation.

Explanatory Note

SECTION 16: [*Local Elections Campaign Financing Act, section 50*]

- adds elector organization disclosure requirements in respect of campaign financing arrangements and campaign period expenses;
- is consequential to amendments made to the Act by this Bill.

16 Section 50 (2) (c), (d), (g) and (k) is repealed and the following substituted:

(c) the election period expenses of the elector organization;

(d) the campaign period expenses of the elector organization;

(d.1) the spending limit expenses of the elector organization;

(d.2) expenses of the elector organization that are not election expenses but must be disclosed under section 14 (6) [*election expenses of candidates and elector organizations*];

(d.3) for each candidate endorsed by the elector organization, the spending limit expenses of the elector organization that are attributable to the candidate's expense limit;

(g) amounts, other than campaign contributions, election period expenses and campaign period expenses, deposited into or paid from a campaign account of the elector organization or transferred between campaign accounts of the elector organization;

(k) if applicable, that the elector organization was a third party sponsor during the campaign period for the election or elections to which the elector organization disclosure statement relates; .

Explanatory Note

SECTION 17: [*Local Elections Campaign Financing Act, section 51*] is consequential to amendments made to the Act by this Bill.

17 Section 51 is amended

(a) in subsection (4) by striking out "multiple jurisdictions" and substituting "multiple election areas" and by striking out "each jurisdiction" and substituting "each election area", and

(b) by repealing subsection (5).

Explanatory Note

SECTION 18: [*Local Elections Campaign Financing Act, section 52*] is consequential to amendments made to the Act by this Bill.

18 Section 52 (4) is repealed.

Explanatory Note

SECTION 19: *[Local Elections Campaign Financing Act, section 54]* adds a notification requirement in respect of candidates endorsed by an elector organization.

19 Section 54 (2) (b) is repealed and the following substituted:

(b) if written notice is given under subsection (1) (b), the BC chief electoral officer must also notify

(i) the other individuals to whom that subsection applies,

(ii) in the case of a supplementary report in relation to a candidate, the designated local authority officer, and

(iii) in the case of a supplementary report in relation to an elector organization, the designated local authority officer and the candidates endorsed by the elector organization.

Explanatory Note

SECTION 20: *[Local Elections Campaign Financing Act, section 60]* is consequential to amendments made to the Act by this Bill.

20 Section 60 (1) is repealed and the following substituted:

(1) The BC chief electoral officer must make the following disqualification lists publicly available on an Elections BC authorized internet site:

(a) in relation to candidate disqualification, the list must include

(i) the individuals who are subject to disqualification penalties under the following sections:

(A) section 64 (2) (b) *[failure to disclose]*;

(B) section 65 (1) (b) *[conviction for false or misleading disclosure]*;

(C) section 65.1 *[endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information]*;

(D) section 68.03 (1) *[disqualification if monetary penalties unpaid]*, and

(ii) the jurisdiction to which the disqualification relates;

(b) in relation to elector organization disqualification, the list must include

(i) the organizations that are subject to disqualification penalties under the following sections:

(A) section 64 (3) *[failure to disclose]*;

(B) section 65 (1) (c) [*conviction for false or misleading disclosure*];

(C) section 68.01 (5) [*penalties for exceeding expense limits or amount available*];

(D) section 68.03 (3) [*disqualification if monetary penalties unpaid*], and

(ii) the jurisdiction to which the disqualification relates;

(c) in relation to third party sponsor or assent voting advertising sponsor disqualification, the list must include the individuals and organizations that are subject to disqualification penalties under the following sections:

(i) section 64 (4) [*failure to disclose*];

(ii) section 65 (1) (d) [*conviction for false or misleading disclosure*];

(iii) section 68.09 (3) [*penalties for exceeding third party advertising limit*].

Explanatory Note

SECTION 21: [*Local Elections Campaign Financing Act, section 62*] is consequential to amendments made to the Act by this Bill.

21 Section 62 (2) is amended by striking out "the election proceedings period" and substituting "the campaign period".

Explanatory Note

SECTION 22: [*Local Elections Campaign Financing Act, Part 5.1*]

- establishes expense limits;
- sets out prohibitions in respect of expense limits;
- establishes rules for campaign financing arrangements.

22 The following Part is added:

Part 5.1 – Expense Limits

Division 1 – Establishment of Expense Limits for Elections

Expense limits – general local election and election held at same time as general local election

63.01 (1) Subject to any applicable regulations, the following expense limits for a candidate for mayor in an election described in section 1 (1) (a) or (d) [*elections to which this Act applies*] apply during the spending limit period in respect of a general local election:

(a) for an election area that has a population of less than 10 000, the expense limit is a prescribed amount;

(b) for an election area that has a population of 10 000 or more, the expense limit is an amount determined in accordance with the regulations using the incremental population adjustment based on the population of the election area for which the election is being held.

(2) Subject to subsection (3) and any applicable regulations, the following expense limits for a candidate in an election described in section 1 (1) (b), (c), (e), (f), (g), (h) or (i) apply during the spending limit period in respect of a general local election or an election held at the same time as a general local election:

(a) for an election area that has a population of less than 10 000, the expense limit is a prescribed amount;

(b) for an election area that has a population of 10 000 or more, the expense limit is an amount determined in accordance with the regulations using the incremental population adjustment based on the population of the election area for which the election is being held.

(3) Subject to any applicable regulations, the expense limit for a candidate for a regional trustee on a francophone education authority in relation to an election area during the spending limit period in respect of an election held at the same time as a general local election for the election area is a prescribed amount.

Population

63.02 (1) Subject to subsection (2), for the purposes of this Division, the population of an election area is to be taken from the most recent population estimates issued annually by the director under the *Statistics Act* (British Columbia) based on the Census of Canada.

(2) The minister responsible may determine the population of an election area

(a) if the population of an election area has not been established by census, or

(b) in other prescribed special circumstances.

Limits and adjustments to reflect changes in consumer price index

63.03 (1) In respect of each general local election that is called after January 1, 2019, the minister responsible in respect of elections under that minister's responsibility must establish the applicable expense limits for the election by

(a) determining the ratio between the consumer price index at July 1, 2018 and the consumer price index at July 1 of the calendar year immediately preceding the calendar year in which the general local election will be held, and

(b) applying the ratio determined under paragraph (a) to adjust the amounts under section 63.01.

(2) For the purpose of making an adjustment under this section, the minister responsible has the discretion to determine

(a) whether to use a consumer price index prepared by the director under the *Statistics Act* (British Columbia) or a consumer price index published by Statistics Canada under the *Statistics Act* (Canada), and

(b) which consumer price index is applicable for a particular time.

Specific expense limits to be made publicly available in advance of general local election

63.04 (1) By September 15 of the calendar year immediately preceding the calendar year in which a general local election will be held, the minister responsible must provide to Elections BC the expense limits established under section 63.01 in relation to each election area for which elections under that minister's responsibility are to be held as part of the general local election or held at the same time as a general local election.

(2) By October 15 of the calendar year immediately preceding the calendar year in which a general local election will be held, Elections BC must make the information provided under subsection (1) publicly available on an Elections BC authorized internet site.

Expense limits – by-election

63.05 Subject to any applicable regulations, the expense limits made publicly available under section 63.04 in respect of the most recent general local election, or an election held at the same time as that general local election, in relation to an election area are the expense limits in respect of a by-election for that election area.

Division 2 – General Restrictions in Relation to Expense Limits

Prohibition against exceeding expense limits or amount available under campaign financing arrangement

63.06 (1) The spending limit expenses of an unendorsed candidate must not exceed the expense limit for the candidate.

(2) In relation to a candidate endorsed by an elector organization,

(a) the total of the following must not exceed the expense limit for the candidate:

(i) the spending limit expenses of the candidate;

(ii) the spending limit expenses of the endorsing elector organization that are attributable to the expense limit for the candidate, and

(b) the spending limit expenses of the candidate must not exceed the amount available to the candidate under the final campaign financing arrangement with the elector organization.

(3) In relation to an elector organization,

(a) the total of the following must not exceed the expense limit for the candidate endorsed by the elector organization:

(i) the spending limit expenses of the candidate;

(ii) the spending limit expenses of the endorsing elector organization that are attributable to the expense limit for the candidate, and

(b) the spending limit expenses of the elector organization that are attributable to the expense limit for the candidate must not exceed the amount available to the elector organization under the final campaign financing arrangement with the candidate.

(4) An unendorsed candidate for whom the spending limit expenses exceed the expense limit as referred to in subsection (1) commits an offence.

(5) A candidate endorsed by an elector organization commits an offence

(a) if the total of the expenses in subsection (2) (a) (i) and (ii) exceeds the expense limit for the candidate,

(b) if the spending limit expenses exceed the amount available to the candidate under the final campaign financing arrangement with the elector organization.

(6) An elector organization commits an offence

(a) if the total of the expenses in subsection (3) (a) (i) and (ii) exceeds the expense limit for the candidate endorsed by the elector organization, and

(b) if the spending limit expenses exceed the amount available to the elector organization under the final campaign financing arrangement with the candidate endorsed by the elector organization.

**Prohibition against incurring spending limit expenses
if expense limits or amount available will be exceeded**

63.07 (1) This section applies to an individual permitted under section 30 (2) (b) or (3) (b) *[how payment in relation to election expenses may be made]* to incur liability for payment in relation to spending limit expenses of a candidate or an elector organization, as applicable.

(2) In the case of an individual authorized in relation to an unendorsed candidate, the individual must not incur liability in relation to the spending limit expenses of the candidate if this would result in the spending limit expenses of the candidate exceeding the expense limit for the candidate.

(3) In the case of an individual authorized in relation to a candidate endorsed by an elector organization, the individual must not incur liability in relation to the spending limit expenses of the candidate if this would result in the spending limit expenses of the candidate exceeding the amount available to the candidate under the final campaign financing arrangement with the elector organization.

(4) In the case of an individual authorized in relation to an elector organization, the individual must not incur liability in relation to the spending limit expenses of the elector organization if this would result in the spending limit expenses of the elector organization that are attributable to the expense limit for a candidate endorsed by the elector organization exceeding the amount available to the elector organization under the final campaign financing arrangement with the candidate.

(5) An individual who contravenes this section commits an offence.

Division 3 – Campaign Financing Arrangements between Candidates and Elector Organizations

Written campaign financing arrangement required

63.08 (1) An elector organization and a candidate who is to be endorsed by the elector organization must enter into a written campaign financing arrangement that apportions the expense limit for the candidate by establishing

(a) the amount that is available for use during the spending limit period in the election campaign of the candidate, and

(b) the amount that is available for use during the election period in the election campaign of the endorsing elector organization.

(2) For certainty, a campaign financing arrangement may apportion the entire expense limit for a candidate to the election campaign of the candidate or to the election campaign of the elector organization.

(3) A campaign financing arrangement must

(a) include an acknowledgment that the candidate is aware of the disclosure requirements set out in section 49 (3) [*candidate disclosure statement – information and other requirements*],

(b) include an acknowledgement that the candidate is aware of the penalties under section 65.1 *[endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information]*,

(c) include a requirement that the elector organization must notify the candidate as soon as practicable when the elector organization becomes aware that it has or will exceed the amount available under the campaign financing arrangement,

(d) include a requirement that the candidate must notify the elector organization as soon as practicable when the candidate becomes aware that the candidate has or will exceed the amount available under the campaign financing arrangement, and

(e) address any other matters prescribed by regulation.

(4) The campaign financing arrangement must be dated and be signed

(a) by the candidate,

(b) if the candidate has a financial agent, by the financial agent for the candidate, and

(c) by the financial agent for the elector organization.

(5) A candidate and an elector organization must not enter into a campaign financing arrangement after the campaign period begins.

(6) An elector organization must not, at any one time, be a party to more campaign financing arrangements in an election for a particular class of office than there are positions to be filled for that class of office.

(7) A candidate or an elector organization that contravenes this section commits an offence.

Attribution of elector organization expenses to candidate expense limits

63.09 (1) If an elector organization endorses only one candidate, the spending limit expenses of the elector organization must be

(a) attributed to the expense limit for that candidate, and

(b) applied against the amount available to the elector organization under the campaign financing arrangement with the candidate.

(2) If an elector organization endorses more than one candidate, the spending limit expenses of the elector organization must be

(a) attributed to those candidates in accordance with the regulations, and

(b) applied against the applicable amounts available to the elector organization under the campaign financing arrangements with the candidates.

(3) For certainty, this section applies regardless of the campaign financing arrangement between an elector organization and a candidate.

Prohibition against spending limit expenses unless campaign financing arrangement is in place

63.10 An elector organization must not incur a spending limit expense unless the elector organization has entered into a campaign financing arrangement, with each candidate that the elector organization endorses or intends to endorse, that provides an amount available for use during the spending limit period in the election campaign of the elector organization.

Amendment to and termination of campaign financing arrangement

63.11 (1) Subject to this section and any applicable regulations, a campaign financing arrangement, including the apportionment referred to in section 63.08 [*written campaign financing arrangement required*], may be changed by written amendment.

(2) An amendment to a campaign financing arrangement is not effective unless the amendment is dated and is signed

(a) by the candidate,

(b) if the candidate has a financial agent, by the financial agent for the candidate, and

(c) by the financial agent for the elector organization.

(3) In the case of an amendment respecting the apportionment referred to in section 63.08, the amendment

(a) may be made no later than 3 days before general voting day, and

(b) may cover spending limit expenses that were incurred before the amendment became effective.

(4) A campaign financing arrangement may be terminated in accordance with the regulations, by the candidate or the elector organization, before, but not after, the start of the campaign period for the election.

Effect of endorsement relationship ending

63.12 (1) This section applies in relation to a candidate and an elector organization if any of the following apply:

(a) the candidate withdraws from the election under section 80 (2) [*withdrawal, death or incapacity of candidate*] of the *Local Government Act* or section 52 (2) [*withdrawal, death or incapacity of candidate*] of the *Vancouver Charter*;

(b) the local election officer notifies the minister responsible under section 80 (4) of the *Local Government Act* or section 52 (4) of the *Vancouver Charter* that the candidate is incapacitated to an extent that will prevent the candidate from holding office;

(c) the candidate dies before the close of general voting;

(d) any other circumstances prescribed by regulation.

(2) The effect of the circumstances described in subsection (1) in relation to the spending limit expenses of the candidate and the spending limit expenses of the elector organization, and the application of this Act to those expenses, are those prescribed by regulation.

Explanatory Note

SECTION 23: [*Local Elections Campaign Financing Act, heading to Part 6*] is consequential to amendments made to the Act by this Bill.

23 The heading to Part 6 is repealed and the following substituted:

Part 6 – Penalties and Court Orders for Relief .

Explanatory Note

SECTION 24: [*Local Elections Campaign Financing Act, heading to Division 1 of Part 6*] is consequential to amendments made to the Act by this Bill.

24 The heading to Division 1 of Part 6 is repealed and the following substituted:

Division 1 – Penalties for Failure to Comply
with Disclosure Requirements .

Explanatory Note

SECTION 25: [*Local Elections Campaign Financing Act, section 64*] provides that a sponsor is disqualified from sponsoring advertising.

25 Section 64 (4) (a) is amended by striking out "the sponsor is prohibited" and substituting "the sponsor is disqualified".

Explanatory Note

SECTION 26: [*Local Elections Campaign Financing Act, section 65*] provides penalties for false or misleading disclosure.

26 Section 65 (1) is repealed and the following substituted:

(1) If a candidate, an elector organization, a third party sponsor or an assent voting advertising sponsor is convicted of an offence under section 84 [*general offence in relation to false or misleading information*] in relation to a disclosure statement or supplementary report, the following penalties apply at the time of conviction:

(a) in the case of a candidate who was declared elected, the candidate ceases to hold office as a member of the local authority and the seat of the member becomes vacant;

(b) in all cases, the candidate is disqualified until after the next general local election from being nominated for, being elected to or holding office as a member of a local authority;

(c) in relation to an elector organization, the elector organization

(i) is disqualified from endorsing a candidate until after the next general local election, and

(ii) is prohibited from accepting campaign contributions or incurring a spending limit expense until after the next general local election;

(d) in relation to a third party sponsor or an assent voting advertising sponsor, the sponsor

(i) is disqualified from sponsoring third party advertising or non-election assent voting advertising until after the next general local election, and

(ii) is prohibited from accepting sponsorship contributions until after the next general local election.

Explanatory Note

SECTION 27: [*Local Elections Campaign Financing Act, section 65.1*] establishes penalties for candidates endorsed by an elector organization if the elector organization is subject to penalties for failure to file disclosure statements or for false or misleading disclosure.

27 The following section is added to Division 1 of Part 6:

Endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information

65.1 (1) If an elector organization becomes subject to penalties under section 64 (3) or 65 (1) (c), the penalties set out in section 64 (2) or 65 (1) (a) and (b), as applicable, apply in relation to a candidate who was endorsed by the elector organization in respect of whom the elector organization failed to meet disclosure requirements or disclosed false or misleading information.

(2) A candidate becomes subject to the penalties under subsection (1) at the same time as the elector organization becomes subject to the penalties under section 64 (3) or 65 (1) (c), as applicable.

(3) If a candidate becomes subject to penalties under this section, section 72 [*candidate disqualification ends*] applies to the candidate if the conviction of the elector organization is overturned on the final determination of an appeal.

Explanatory Note

SECTION 28: [*Local Elections Campaign Financing Act, section 66*] adds service requirements in respect of applications by an elector organization.

28 Section 66 (4) (c) is repealed and the following substituted:

(c) in the case of an application in relation to an elector organization,

(i) on the organization and individuals referred to in subsection (2) (b), and

(ii) on the candidates endorsed by the elector organization; .

Explanatory Note

SECTION 29: [*Local Elections Campaign Financing Act, section 68*] provides the court with authority to provide relief for a candidate who is subject to a penalty under section 65.1 of the Act.

29 Section 68 (2) is amended by adding the following paragraph:

(b.1) in relation to an order under subsection (1) respecting an elector organization disclosure statement, provide relief in relation to a candidate endorsed by the elector organization who is subject to a penalty under section 65.1 [*endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information*]; .

Explanatory Note

SECTION 30: [*Local Elections Campaign Financing Act, Divisions 3, 4 and 5 of Part 6*]

- establishes penalties for exceeding expense limits and amounts available;
- provides for court order relief for exceeding expense limits and amounts available;
- establishes penalties for exceeding third party advertising limits;
- provides for court order relief for exceeding third party advertising limits.

30 The following Divisions are added to Part 6:

Division 3 – Expense Limit Penalties

Penalties for exceeding expense limits or amount available

68.01 (1) Subject to a court order for relief under section 68.06 (1) [*court relief powers respecting exceeding expense limits or amount available*], the penalties under this section apply to a candidate or an elector organization in relation to exceeding an expense limit or the amount available under a final campaign financing arrangement.

(2) The penalty set out in subsection (3) applies to

(a) an unendorsed candidate if the spending limit expenses of the candidate exceeded the expense limit for the candidate, and

(b) a candidate endorsed by an elector organization if the total of the following exceeded the expense limit for the candidate:

(i) the spending limit expenses of the candidate;

(ii) the spending limit expenses of the endorsing elector organization that are attributable to the expense limit for the candidate.

(3) In the case of a candidate who was declared elected, the candidate ceases to hold office as a member of the local authority and the seat of the member becomes vacant.

(4) The penalties set out in subsection (5) apply to an elector organization if both of the following apply:

(a) the total of the following exceeded the expense limit for a candidate endorsed by the elector organization:

(i) the spending limit expenses of the candidate;

(ii) the spending limit expenses of the endorsing elector organization that are attributable to the expense limit for the candidate;

(b) the spending limit expenses of the endorsing elector organization attributable to the expense limit for the candidate exceeded the amount available to the elector organization under the final campaign financing arrangement with the candidate.

(5) The elector organization

(a) is disqualified from endorsing a candidate until after the next general local election, and

(b) is prohibited from accepting campaign contributions or incurring a spending limit expense until after the next general local election.

(6) Subject to any applicable regulations, if the fact that an expense limit or the amount available was exceeded is disclosed in the disclosure statement or supplementary report of a candidate or an elector organization, as applicable, the candidate or elector organization becomes subject to the penalties under this section as follows:

(a) if no application for relief under section 68.04 [*application for relief in relation to exceeding expense limits or amount available*] is made in accordance with that section, on the day after the compliance deadline for the statement or report;

(b) if an application referred to in paragraph (a) has been made, on the later of the following:

(i) 42 days after the time limit for making an application under the section;

(ii) if applicable, the date set by court order under section 69 [*extension of time before penalties apply*].

(7) An individual or organization that contravenes a prohibition that applies under this section commits an offence.

(8) For certainty, the penalties under this section apply whether or not a prosecution for an offence under section 63.06 (4), (5) or (6) [*prohibition against exceeding expense limits or amount available under campaign financing arrangement*] has been commenced.

Monetary penalties for exceeding expense limits or amount available

68.02 (1) Subject to a court order for relief under section 68.07 (1), [*court relief powers respecting exceeding expense limits or amount available – monetary penalties*], the monetary penalties under this section apply to a candidate or an elector organization in relation to exceeding an expense limit or the amount available under a final campaign financing arrangement.

(2) The monetary penalties set out in subsection (3) apply to

(a) an unendorsed candidate if the spending limit expenses of the candidate exceeded the expense limit for the candidate, and

(b) a candidate endorsed by an elector organization if the spending limit expenses of the candidate exceeded the amount available to the candidate under the final campaign financing arrangement with the elector organization that endorsed the candidate.

(3) A candidate must pay to the BC chief electoral officer,

(a) in the case of an unendorsed candidate, a monetary penalty equal to 2 times the amount by which the expense limit was exceeded, and

(b) in the case of a candidate endorsed by an elector organization, a monetary penalty equal to 2 times the amount by which the amount available to the candidate was exceeded.

(4) The monetary penalty set out in subsection (5) applies to an elector organization if the spending limit expenses of the endorsing elector organization attributable to the expense limit for the candidate exceeded the amount available to the elector organization under the final campaign financing arrangement with the candidate.

(5) The elector organization must pay to the BC chief electoral officer a monetary penalty equal to 5 times the amount by which the amount available to the elector organization was exceeded.

(6) Subject to any relief provided under section 68.08 [*individual relief from monetary penalty liability of responsible principal officials*], if an elector organization is subject to a monetary penalty under subsection (5) of this section, the individuals who were responsible principal officials of the organization at any time during the spending limit period for the election to which the penalty relates are jointly and severally liable with the elector organization to pay the monetary penalty.

(7) Subject to any applicable regulations, if the fact that an expense limit or the amount available was exceeded is disclosed in the disclosure statement or supplementary report of a candidate or an elector organization, as applicable, the candidate or elector organization becomes subject to the monetary penalties under this section as follows:

(a) if no application for relief under section 68.04 is made in accordance with that section, on the day after the compliance deadline for the statement or report;

(b) if an application referred to in paragraph (a) has been made, on the later of the following:

(i) 42 days after the time limit for making an application under the section;

(ii) if applicable, the date set by court order under section 69 [*extension of time before penalties apply*].

(8) An individual or organization that contravenes this section commits an offence.

Disqualification if monetary penalties unpaid

68.03 (1) If a candidate is subject to a monetary penalty under section 68.02 and does not pay the monetary penalty within 30 days of the date the candidate is subject to the penalty, the candidate is disqualified, subject to subsection (2) of this section, from being nominated for, being elected to or holding office as a member of a local authority until after the next general local election.

(2) On payment by the candidate of the monetary penalty described in subsection (1), the candidate ceases to be disqualified under that subsection.

(3) Subject to subsection (4), if an elector organization is subject to a monetary penalty under section 68.02 and does not pay the monetary penalty within 30 days of the date the elector organization is subject to the penalty, the elector organization

(a) is disqualified from endorsing a candidate until after the next general local election, and

(b) is prohibited from accepting campaign contributions or incurring a spending limit expense until after the next general local election.

(4) An elector organization that, under section 68.01,

(a) has been disqualified from endorsing a candidate until after the next general local election, and

(b) has been prohibited from accepting campaign contributions or incurring a spending limit expense until after the next general local election, and

that contravenes section 68.02 (5) commits an offence.

(5) An individual or organization that contravenes a prohibition that applies under this section commits an offence.

Division 4 – Court Orders for Relief in Relation to Exceeding Expense Limits or Amount Available

Application for relief in relation to exceeding expense limits or amount available

68.04 (1) An application to the Supreme Court for relief in relation to exceeding an expense limit or the amount available may be made in accordance with this Division.

(2) An application for relief under this section may be made as follows:

(a) in relation to an unendorsed candidate described in section 68.01 (2) (a) [*penalties for exceeding expense limits or amount available*] or 68.02 (2) (a) [*monetary penalties for exceeding expense limits*], by the candidate or the financial agent for the candidate;

(b) in relation to a candidate endorsed by an elector organization described in section 68.01 (2) (b) or 68.02 (2) (b), by the candidate or the financial agent for the candidate;

(c) in relation to an elector organization described in section 68.01 (4) or 68.02 (4), by the elector organization, the financial agent for the elector organization or a responsible principal official of the elector organization.

(3) An application under this section may only be made if the fact that an expense limit or the amount available was exceeded is disclosed, or anticipated by the applicant to be disclosed, in

the disclosure statement or supplementary report of the candidate or elector organization, as applicable, on or before the compliance deadline for the statement or report.

(4) A petition for an application under this section must be served on the following, other than the applicant, no later than 7 days after the petition is filed in the court registry:

(a) in all cases, on the BC chief electoral officer;

(b) in the case of an application in relation to a candidate, on the candidate or the financial agent for the candidate and, if the candidate is endorsed by the elector organization, on the elector organization;

(c) in the case of an application in relation to an elector organization, on the financial agent for the elector organization or a responsible principal official of the elector organization, on the candidate endorsed by the elector organization and on the financial agent for the candidate, if the candidate has a financial agent;

(d) in the case of a candidate who was declared elected, on the jurisdiction in relation to which the election was held.

Special rules respecting applications for relief in relation to candidates exceeding expense limits

68.05 (1) In the case of an application for relief in relation to a candidate exceeding the expense limit for the candidate, the applicant, no later than 14 days after a petition for the application is filed, must set the matter down for hearing by the Supreme Court.

(2) The following apply in relation to an application under this section:

(a) the applicant must take all reasonable steps to have the application heard as soon as practicable;

(b) the applicant must provide to the jurisdiction in relation to which the election was held and to the BC chief electoral officer notice of the date the application is set down for hearing and of any adjournments;

(c) when deciding whether to grant relief under this section, the court must consider whether the applicant acted diligently to have the application heard as soon as practicable.

Court relief powers respecting exceeding expense limits or amount available – penalties

68.06 (1) Subject to this section, on the hearing of an application under this Division, the court may provide relief as follows:

(a) ordering that the penalty under section 68.01 (3) [*penalties for exceeding expense limits or amount available*] does not apply to a candidate;

(b) ordering that the penalty under section 68.01 (5) does not apply to an elector organization.

(2) The authority to provide relief under subsection (1) includes the authority to make any additional order the court considers appropriate to secure compliance with Part 5.1 [*Expense Limits*] to the extent the court considers reasonable in the circumstances.

(3) In relation to an unendorsed candidate subject to a penalty under section 68.01 (3), the court may provide relief only if satisfied that

(a) exceeding the expense limit did not materially affect the result of the election, and

(b) the candidate exercised due diligence to ensure that the candidate's spending limit expenses did not exceed the expense limit.

(4) In relation to a candidate endorsed by an elector organization who is subject to a penalty under section 68.01 (3), the court may provide relief only if satisfied that

(a) exceeding the expense limit did not materially affect the result of the election,

(b) the candidate exercised due diligence to ensure that the candidate's spending limit expenses did not exceed the amount available to the candidate under the final campaign financing arrangement with the endorsing elector organization, and

(c) the candidate acted in good faith in relation to the elector organization's spending limit expenses exceeding the amount available to the elector organization under the campaign financing arrangement.

(5) In relation to an elector organization subject to a penalty under section 68.01 (5), the court may provide relief only if satisfied that

(a) exceeding the expense limit for the candidate endorsed by the elector organization did not materially affect the result of the election, and

(b) the individuals who are or may be liable under section 68.02 (6) exercised due diligence to ensure that the elector organization's spending limit expenses did not exceed the amount available to the elector organization under the final campaign financing arrangement with the candidate endorsed by the elector organization.

Court relief powers respecting exceeding expense limits or amount available – monetary penalties

68.07 (1) Subject to this section, on the hearing of an application under this Division, the court may provide relief as follows:

(a) ordering that all or part of the applicable monetary penalty under section 68.02 (3) [*monetary penalties for exceeding expense limits or amount available*] does not apply to a candidate;

(b) ordering that all or part of the monetary penalty under section 68.02 (5) does not apply to an elector organization.

(2) The authority to provide relief under subsection (1) includes the authority to make any additional order the court considers appropriate to secure compliance with Part 5.1 [*Expense Limits*] to the extent the court considers reasonable in the circumstances.

(3) In relation to a candidate subject to a monetary penalty under section 68.02 (3), the court may provide relief only if satisfied the candidate exercised due diligence to ensure that,

(a) in the case of an unendorsed candidate, the candidate's spending limit expenses did not exceed the expense limit for the candidate, and

(b) in the case of a candidate endorsed by an elector organization, the candidate's spending limit expenses did not exceed the amount available to the candidate under the final campaign financing arrangement.

(4) In relation to an elector organization subject to a monetary penalty under section 68.02 (5), the court may provide relief only if satisfied that the individuals who are or may be liable under section 68.02 (6) exercised due diligence to ensure that the elector organization's spending limit expenses did not exceed the amount available to the elector organization under the final campaign financing arrangement with the candidate endorsed by the elector organization.

Individual relief from monetary penalty liability of responsible principal officials

68.08 (1) An individual who is or may be liable under section 68.02 (6) [*monetary penalties for exceeding expense limits or amount available*] may apply to the Supreme Court in accordance with this section for relief from the individual's liability.

(2) A petition for an application under this section must be served on the following no later than 7 days after the petition is filed in the court registry:

(a) the BC chief electoral officer;

(b) the elector organization;

(c) any individual, other than the applicant, who is or may be liable as referred to in subsection (1).

(3) Subject to subsection (4), on the hearing of an application under this section, the court may provide relief from all or part of the applicant's liability to pay the elector organization's monetary penalty.

(4) The court may provide relief only if satisfied that the applicant exercised due diligence to ensure that the elector organization's spending limit expenses attributable to the expense limit for the candidate did not exceed the amount available to the elector organization under the final campaign financing arrangement with that candidate.

Division 5 – Third Party Advertising Limits – Penalties and Court Orders for Relief

Penalties for exceeding third party advertising limits

68.09 (1) Subject to a court order for relief provided under section 68.11 (1), the penalties under this section apply to a third party sponsor in relation to exceeding a third party advertising limit.

(2) The penalties set out in subsection (3) and the applicable monetary penalty set out in subsection (4) apply to a third party sponsor if the value of the third party advertising sponsored during the campaign period exceeded a third party advertising limit for the sponsor.

(3) The sponsor is

(a) disqualified from sponsoring third party advertising until after the next general local election, and

(b) prohibited from accepting sponsorship contributions until after the next general local election.

(4) The sponsor must pay to the BC chief electoral officer,

(a) in the case of a sponsor that is an individual, a monetary penalty equal to 2 times the amount by which a third party advertising limit was exceeded, and

(b) in the case of a sponsor that is an organization, a monetary penalty equal to 5 times the amount by which a third party advertising limit was exceeded.

(5) Subject to any applicable regulations, if the fact that a third party advertising limit was exceeded is disclosed in the disclosure statement or supplementary report of a sponsor, as applicable, the sponsor becomes subject to the penalties under this section as follows:

(a) if no application for relief under section 68.10 is made in accordance with that section, on the day after the compliance deadline for the statement or report;

(b) if an application referred to in paragraph (a) has been made, on the later of the following:

(i) 42 days after the time limit for making an application under the section;

(ii) if applicable, the date set by court order under section 69 [*extension of time before penalties apply*].

(6) Subject to any relief provided under section 68.12 [*individual relief from liability of responsible principal officials*], if a sponsor that is an organization is subject to a monetary penalty under this section, the individuals who were responsible principal officials of the organization at any time during the campaign period for the election or elections to which the third party advertising relates are jointly and severally liable with the organization to pay the monetary penalty under this section in relation to the organization.

(7) An individual or organization that contravenes a prohibition that applies under this section commits an offence.

(8) An individual or organization that contravenes subsection (4) commits an offence.

(9) For certainty, the penalties under this section apply whether or not a prosecution for an offence under section 41.5 (3) [*prohibition against third party advertising exceeding third party advertising limits*] has been commenced.

Application for relief in relation to exceeding third party advertising limits

68.10 (1) An application to the Supreme Court for relief in relation to a third party sponsor exceeding a third party advertising limit may be made in accordance with this section.

(2) An application for relief under this section may be made by the following:

(a) the sponsor;

(b) if the sponsor is an organization, an individual who is or may be liable under section 68.09 (6).

(3) An application under this section may only be made if the fact that a third party advertising limit was exceeded is disclosed, or anticipated by the applicant to be disclosed, in

(a) the disclosure statement of the sponsor, or

(b) the supplementary report of the sponsor.

(4) A petition for an application under this section must be filed on or before the compliance deadline for the disclosure statement or supplementary report of the sponsor.

(5) A petition for an application under this section must be served on the following, other than the applicant, no later than 7 days after the petition is filed in the court registry:

(a) the BC chief electoral officer;

(b) if the sponsor is an organization, the individuals who are or may be liable for a penalty under section 68.09 (6).

Court relief powers respecting exceeding third party advertising limits

68.11 (1) Subject to this section, on the hearing of an application under this Division, the court may provide relief as follows:

- (a) ordering that the penalty under section 68.09 (3) does not apply to a third party sponsor;
- (b) ordering that all or part of the applicable monetary penalty under section 68.09 (4) does not apply to a third party sponsor.
- (2) The authority to provide relief under subsection (1) includes the authority to make any additional order the court considers appropriate to secure compliance with Division 4 [*Third Party Advertising Limits*] of Part 3 [*Third Party Advertising*] to the extent the court considers reasonable in the circumstances.
- (3) In relation to a sponsor who is an individual, the court may provide relief only if satisfied the sponsor exercised due diligence to ensure that the value of the third party advertising of the third party sponsor did not exceed a third party advertising limit for the third party sponsor.
- (4) In relation to a sponsor that is an organization, the court may provide relief only if satisfied that the individuals who are or may be liable under section 68.09 (6) exercised due diligence to ensure that the value of the third party advertising of the sponsor did not exceed a third party advertising limit for the third party sponsor.

Individual relief from liability of responsible principal officials

68.12 (1) An individual who is or may be liable under section 68.09 (6) [*penalties for exceeding third party advertising limits*] may apply to the Supreme Court in accordance with this section for relief from the individual's liability.

(2) A petition for an application under this section must be served on the following no later than 7 days after the petition is filed in the court registry:

- (a) the BC chief electoral officer;
- (b) the organization that is the third party sponsor;
- (c) any individual, other than the applicant, who is or may be liable as referred to in subsection (1).
- (3) Subject to subsection (4), on the hearing of an application under this section, the court may provide relief from all or part of the applicant's liability to pay the third party sponsor's monetary penalty.

(4) The court may provide relief only if satisfied that the applicant exercised due diligence to ensure that the value of the third party advertising of the third party sponsor did not exceed a third party advertising limit for the third party sponsor.

Explanatory Note

SECTION 31: [*Local Elections Campaign Financing Act, heading to Division 6 of Part 6*] is consequential to amendments being made to the Act by this Bill.

31 The following heading is added before section 69:

Division 6 – General Provisions in Relation to
Court Orders for Relief .

Explanatory Note

SECTION 32: [*Local Elections Campaign Financing Act, section 69*] is consequential to amendments being made to the Act by this Bill.

32 Section 69 (1) is repealed and the following substituted:

(1) Subject to subsection (2), the Supreme Court may extend the date when a penalty would otherwise apply under any of the following sections:

(a) section 64 (5) (b) (i) [*penalties apply 42 days after compliance deadline*];

(b) section 68.01 (6) (b) (i) [*penalties for exceeding expense limits or amount available*];

(c) section 68.02 (7) (b) (i) [*monetary penalties for exceeding expense limits or amount available*];

(d) section 68.09 (5) (b) (i) [*penalties for exceeding third party advertising limits*].

Explanatory Note

SECTION 33: [*Local Elections Campaign Financing Act, section 72*] clarifies the circumstances in which a candidate, an elector organization and a third party sponsor cease to be disqualified.

33 Section 72 (3) is repealed and the following substituted:

(2.1) For certainty, if

(a) a candidate endorsed by an elector organization is subject to disqualification penalties under section 65.1 [*endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information*], and

(b) on the final determination of an application under section 66 [*application for relief in relation to disclosure requirements*] by the elector organization, the court provides relief for the elector organization,

the candidate ceases to be disqualified.

(2.2) For certainty, if

(a) a candidate ceases to hold office as a member of the local authority under section 68.01 (3) [*penalties for exceeding expense limits or amount available*], and

(b) on the final determination of an application under section 68.04, the court provides relief from exceeding the expense limit or amount available and there is compliance with the court order,

subsection (3) of this section applies.

(3) If a candidate to whom subsection (2) or (2.1) applies was declared elected before ceasing to hold office and becoming disqualified under section 64 and if the term of office for which the candidate was elected has not ended,

(a) the candidate is entitled to take office for any unexpired part of the term if not otherwise disqualified, and

(b) if the candidate exercises this right, the individual currently holding the office ceases to hold office.

(4) For certainty, an elector organization that is subject to disqualification penalties under section 68.01 (5) ceases to be disqualified under that section if, on the final determination of an application under section 68.04,

(a) the court provides relief, and

(b) there is compliance with the court order.

(5) For certainty, a third party sponsor that is subject to disqualification penalties under section 68.09 (3) [*penalties for exceeding third party advertising limits*] ceases to be disqualified under that section if, on the final determination of an application under section 68.10 [*application for relief in relation to exceeding third party advertising limits*],

(a) the court provides relief, and

(b) there is compliance with the court order.

Explanatory Note

SECTION 34: *[Local Elections Campaign Financing Act, section 73]* imposes an obligation on the BC chief electoral officer to provide a report to the local authority if an elected member becomes subject to specified penalties.

34 Section 73 is repealed and the following substituted:

Report to local authority respecting disqualification of elected candidate

73 If an elected member of a local authority becomes subject to a penalty under any of the following sections, the BC chief electoral officer must report to the local authority, as applicable, that the seat of the member has become vacant or the member has become disqualified to hold office:

- (a) section 64 (2) (a) *[penalties for failure to disclose]*;
- (b) section 64 (2) (b) *[disqualification penalty for failure to disclose]*;
- (c) section 65 (1) (a) *[penalties for false or misleading disclosure]*;
- (d) section 65 (1) (b) *[disqualification penalty for false or misleading disclosure]*;
- (e) section 65.1 *[endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information]*;
- (f) section 68.01 (3) *[penalties for exceeding expense limits or amount available]*;
- (g) section 68.03 (1) *[disqualification if monetary penalties unpaid]*.

Explanatory Note

SECTION 35: *[Local Elections Campaign Financing Act, section 100]* is consequential to amendments being made to the Act by this Bill.

35 Section 100 (2) is amended

- (a) in paragraph (c) by striking out ", jurisdiction area", and
- (b) by repealing paragraph (d) and substituting the following:
 - (d) in relation to section 42 *[application of third party advertising rules to non-election assent voting advertising]*, in addition to the authority under subsection (4) of this section, making any other regulations the Lieutenant Governor in Council considers necessary or advisable in relation to the application of the following to non-election assent voting:
 - (i) Divisions 1 to 3 of Part 3 *[Third Party Advertising]*;

(ii) any other provisions of this Act or the regulations that apply in relation to those Divisions; .

Explanatory Note

SECTION 36: [*Local Elections Campaign Financing Act, sections 100.1 and 100.2*] adds regulation-making powers in respect of third party advertising limits and in respect of expense limits.

36 The following sections are added:

Power to make regulations – third party advertising limits

100.1 (1) Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations respecting third party advertising limits, including, without limitation, but subject to subsection (2), for the purposes of section 41.1 [*third party advertising limits*], establishing an amount based on a prescribed percentage of the expense limit for a prescribed class of candidates, and prescribing a cumulative third party advertising limit.

(2) A regulation under section 41.1 may only be made on the recommendation of the minister responsible.

Power to make regulations – expense limits

100.2 (1) Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations respecting expense limits, including, without limitation, but subject to subsection (3), as follows:

(a) for the purposes of section 63.01 (1) (b) and (2) (b) [*expense limits*], determining the amount of the expense limit, including establishing formulas to determine the amount;

(b) respecting the expense limit for a candidate referred to in section 4 (2) [*what is the election campaign of a candidate*];

(c) prescribing a form for a campaign financing arrangement for candidates and elector organizations;

(d) for the purposes of section 63.09 (2) [*attribution of elector organization expenses to candidate expense limits*], respecting the basis on which the spending limit expenses must be attributed, including prescribing factors or principles to be considered when attributing spending limit expenses;

(e) for the purposes of section 63.11 [*amendment to and termination of campaign financing arrangement*], prescribing the form and manner of the termination of the campaign financing arrangement and the information that must be included in the termination, establishing the process for termination, including the notice requirements, and respecting the restrictions on or obligations of a candidate and an elector organization following the termination;

(f) for the purposes of section 63.12 [*effect of endorsement relationship ending*], respecting the effect of the ending of an endorsement relationship, including prescribing notice requirements and effects on parties other than the elector organization and the candidate endorsed by the elector organization, and respecting the restrictions on or obligations of a candidate and an elector organization following the ending of an endorsement relationship.

(2) The authority to make a regulation under subsection (1) (b) of this section includes the authorities set out in section 100 (4) (a) to (e).

(3) A regulation under section 63.01 may only be made on the recommendation of the minister responsible.

Explanatory Note

SECTION 37: [*Local Elections Campaign Financing Act, section 1 of the Schedule*]

- adds definitions, consequential to amendments being made to the Act by this Bill;
- updates a cross-reference in the definitions of "assent voting proceedings period" and "campaign period";
- repeals and replaces the definitions of "court order for relief", "incurring an election expense" and "shared election expense", consequential to amendments being made to the Act by this Bill;
- replaces the definition of "personal election expenses" with a definition of "personal expenses";
- repeals definitions, consequential to amendments being made to the Act by this Bill.

37 Section 1 of the Schedule is amended

(a) by adding the following definition:

"amount available", in relation to an expense limit for a candidate who is or was endorsed by an elector organization, means the amount apportioned under section 63.08 [*written campaign financing arrangement required*] or the amended amount under section 63.11 [*amendment to and termination of campaign financing arrangement*] as available for use in the election campaign of the candidate or elector organization, as applicable; ,

(b) in the definition of "assent voting proceedings period" by striking out "section 10 (3)" and substituting "section 10 (4)",

(c) by adding the following definition:

"campaign financing arrangement" means the arrangement between a candidate and an elector organization as required under section 63.08 [*written campaign financing arrangement required*], or as amended under section 63.11 [*amendment to and termination of campaign financing arrangement*], as applicable; ,

(d) in the definition of "campaign period" by striking out "section 10 (1) [*what is an election proceedings period*]" and substituting "section 10 (2) [*what is a campaign period*]",

(e) by adding the following definition:

"campaign period expense" means a campaign period expense within the meaning of section 15 [*what are campaign period expenses*]; ,

(f) by repealing the definition of "court order for relief" and substituting the following:

"court order for relief" means a court order under the following Divisions of Part 6 [*Penalties and Court Orders for Relief*]:

(a) Division 2 [*Court Orders for Relief in Relation to Disclosure Requirements*];

(b) Division 4 [*Court Orders for Relief in Relation to Exceeding Expense Limits or Amount Available*];

(c) Division 5 [*Third Party Advertising Limits – Penalties and Court Orders for Relief*]; ,

(g) by adding the following definitions:

"cumulative third party advertising limit" means the overall amount prescribed under section 41.1 (b) [*third party advertising limits*] for directed advertising and issue advertising;

"election area",

(a) in relation to an election under the *Local Government Act*, has the same meaning as in the *Local Government Act*,

(b) in relation to an election under the *School Act*, has the same meaning as in the *School Act*,

(c) in relation to an election under the *Vancouver Charter*, has the same meaning as in the *Vancouver Charter*, and

(d) in relation to an election prescribed under section 1 of this Act, has the prescribed meaning; ,

(h) by repealing the definitions of "election proceedings period" and "election proceedings period expense",

(i) by adding the following definitions:

"election period" means an election period within the meaning of section 10 (1) [*what is an election period*];

"election period expense" means an election period expense within the meaning of section 15 *[what are election period expenses]*;

"endorsed", in relation to a candidate or an elector organization, includes the candidate having entered into a campaign financing arrangement with the elector organization before endorsement documents are filed with the local election officer;

"expense limit" means the applicable limit for a candidate established under section 63.01 *[expense limits – general local election]* or 63.05 *[expense limits – by-election]*;

"final campaign financing arrangement" means a campaign financing arrangement as it reads on general voting day;

"incurring a campaign period expense" means using property or services in such a manner that the value of the property or services is a campaign period expense; ,

(j) by repealing the definition of "incurring an election expense" and substituting the following:

"incurring an election expense" means using property or services in such a manner that the value of the property or services is an election expense; ,

(k) by adding the following definitions:

"incurring an election period expense" means using property or services in such a manner that the value of the property or services is an election period expense;

"incurring a spending limit expense" means using property or services in such a manner that the value of the property or services is a spending limit expense; ,

(l) by repealing the definition of "jurisdiction area",

(m) by repealing the definitions of "personal election expenses" and "shared election expense" and substituting the following:

"personal expenses" means the personal expenses in relation to a candidate within the meaning of section 14 (3) *[exclusions from election expenses]*;

"shared election expense" means

(a) election advertising sponsored jointly by 2 or more candidates, such that a portion of the total value of the election advertising is an election expense of each candidate participating in the sponsorship, or

(b) the use of property or services other than election advertising jointly by 2 or more candidates, such that a portion of the total value of the property or services is an election expense of each candidate participating in that use; , and

(n) by adding the following definitions:

"shared third party advertising" means third party advertising sponsored jointly by 2 or more third party sponsors, such that a portion of the total value of the third party advertising is third party advertising of each third party sponsor;

"spending limit expense" means a spending limit expense within the meaning of section 15 *[what are spending limit expenses]*;

"spending limit period" means the period applicable in relation to an election under section 10 (3) *[what is a spending limit period]*;

"third party advertising limit" means the applicable limit for a third party sponsor established under section 41.1 *[third party advertising limit – general local election]* or 41.4 *[third party advertising limits – by-elections]*;

"unendorsed candidate" means a candidate who is not endorsed by an elector organization; .

Transitional Provision

Local Government Act

Explanatory Note

SECTION 38: *[Transition – Application before the 2018 general local election]* provides that the amendments made by this Act to the *Local Elections Campaign Financing Act*, the *Local Government Act*, the *School Act* and the *Vancouver Charter* do not apply to specified elections or voting before the 2018 general local election.

Transition – Application before the 2018 general local election

38 (1) Despite the amendments made to the *Local Elections Campaign Financing Act*, S.B.C. 2014, c. 18, by this Act, the *Local Elections Campaign Financing Act*, as it reads immediately before the coming into force of this Act, continues to apply to elections referred to in section 1 *[elections to which this Act applies]* of that Act, and to voting referred to in section 2 *[assent voting to which this Act applies]* of that Act, held before the 2018 general local election.

(2) Despite the amendments made by this Act to

(a) the *Local Government Act*, R.S.B.C. 1996, c. 323, except for the amendment made by this Act to section 150 (2) of the *Local Government Act*,

(b) the *School Act*, R.S.B.C. 1996, c. 412, except for the amendment made by this Act to section 166.18 (5) of the *School Act*, and

(c) the *Vancouver Charter*, S.B.C. 1953, c. 55,

the *Local Government Act*, *School Act* and *Vancouver Charter*, as they read immediately before the coming into force of this Act, continue to apply to elections referred to in section 1 [*elections to which this Act applies*] of the *Local Elections Campaign Financing Act*, and to voting referred to in section 2 [*assent voting to which this Act applies*] of the *Local Elections Campaign Financing Act*, held before the 2018 general local election.

Consequential and Related Amendments

Local Government Act

Explanatory Note

SECTION 39: [*Local Government Act, section 37*] requires a local government to notify the ministry and is consequential to amendments made to the *Local Elections Campaign Financing Act* by this Bill.

39 Section 37 of the Local Government Act, R.S.B.C. 1996, c. 323, is amended

(a) by repealing subsection (1) (f) and substituting the following:

(f) the office becomes vacant under any of the following sections of the *Local Elections Campaign Financing Act*:

(i) section 64 (2) (a) [*candidate penalties for failure to disclose*];

(ii) section 65 (1) (a) [*candidate penalties for false or misleading disclosure*];

(iii) section 65.1 (1) [*endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information*];

(iv) section 68.01 (3) [*candidate penalties for exceeding expense limit*]. , and

(b) by repealing subsection (4) and substituting the following:

(4) As soon as practicable after a vacancy occurs for which an election under this section is to be held, the local government must

(a) appoint a chief election officer for the election, and

(b) notify the minister of the election.

(4.1) As soon as practicable after the appointment under subsection (4) (a), the chief election officer must notify the BC chief electoral officer of the election.

Explanatory Note

SECTION 40: [*Local Government Act, section 70*] requires a notice of nomination to include information about expense limits and third party advertising limits.

40 Section 70 (2) is amended by adding the following paragraphs:

(c.1) the expense limits,

(i) made publicly available under section 63.04 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 63.05 of the *Local Elections Campaign Financing Act*;

(c.2) the following information about third party advertising:

(i) the third party advertising limits,

(A) made publicly available under section 41.3 (2) of the *Local Elections Campaign Financing Act*, that apply to the election area, or

(B) if the election is a by-election, that apply to the election area under section 41.4 of the *Local Elections Campaign Financing Act*;

(ii) the third party advertising limits, made publicly available under section 41.3 (2) of the *Local Elections Campaign Financing Act*, that applies; .

Explanatory Note

SECTION 41: [*Local Government Act, section 150*] provides rules for the retention of nomination and endorsement documents.

41 Section 150 (2) is repealed and the following substituted:

(2) After the end of the period for conducting a judicial recount, the designated local government officer

(a) is responsible for retaining the materials referred to in subsection (1) (a) to (c), and

(b) must retain the nomination documents and endorsement documents referred to in subsection (1) (b) until 5 years after the general voting day for the election for which the documents relate.

(2.1) Subsection (2) (b) applies to documents retained in respect of the 2014 general local election and all subsequent elections.

(2.2) The designated local government official is not in contravention of subsection (2) (b) if, under section 76 [*additional specific powers to require information*] of the *Local Elections*

Campaign Financing Act, the local government is required to provide the documents to the BC chief electoral officer.

School Act

Explanatory Note

SECTION 42: [*School Act, section 36*] adds cross-references, requires certain notifications and is consequential to amendments made to the *Local Elections Campaign Financing Act* by this Bill.

42 Section 36 of the School Act, R.S.B.C. 1996, c. 412, is amended

(a) by repealing subsection (1) (c.1) and substituting the following:

(c.1) the office becomes vacant under any of the following sections of the *Local Elections Campaign Financing Act*:

(i) section 64 (2) (a) [*candidate penalties for failure to disclose*];

(ii) section 65 (1) (a) [*candidate penalties for false or misleading disclosure*];

(iii) section 65.1 (1) [*endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information*];

(iv) section 68.01 (3) [*candidate penalties for exceeding expense limit*]. , and

(b) by repealing subsection (3) and substituting the following:

(3) Within 30 days after a vacancy occurs for which an election is to be held, the board must do the following:

(a) in the case of a trustee election required to be conducted by the board, appoint a chief election officer;

(b) in the case of a trustee election required to be conducted by a municipality, notify the municipal council of the election;

(c) for an election under paragraph (a) or (b), notify the minister of the election.

(3.1) In the case of a trustee election required to be conducted by a municipality, the municipal council must appoint a chief election officer within 30 days after being notified under subsection (3) (b).

(3.2) As soon as practicable after an appointment under subsection (3) (a) or (3.1), the chief election officer must notify the BC chief electoral officer of the election.

Explanatory Note

SECTION 43: [*School Act, section 166.18*] adds the language that applies to a francophone education authority.

43 Section 166.18 (5) is amended by striking out "is disqualified from being nominated" and substituting "is disqualified from standing for election".

Explanatory Note

SECTION 44: [*School Act, section 166.2*] is consequential to amendments made to the *Local Elections Campaign Financing Act* by this Bill.

44 Section 166.2 (1) is amended by striking out "or" at the end of paragraph (a), by adding "or" at the end of paragraph (b) and by adding the following paragraph:

(c) the office of a regional trustee becomes vacant under any of the following sections of the *Local Elections Campaign Financing Act*:

(i) section 64 (2) (a) [*candidate penalties for failure to disclose*];

(ii) section 65 (1) (a) [*candidate penalties for false or misleading disclosure*];

(iii) section 68.01 (3) [*candidate penalties for exceeding expense limit*], .

Vancouver Charter

Explanatory Note

SECTION 45: [*Vancouver Charter, section 10*] adds cross-references and sets out certain required notifications, consequential to amendments made to the *Local Elections Campaign Financing Act* by this Bill.

45 Section 10 of the Vancouver Charter, S.B.C. 1953, c. 55, is amended

(a) by repealing subsection (1) (e) and substituting the following:

(e) the office becomes vacant under any of the following sections of the *Local Elections Campaign Financing Act*:

(i) section 64 (2) (a) [*candidate penalties for failure to disclose*];

(ii) section 65 (1) (a) [*candidate penalties for false or misleading disclosure*];

(iii) section 65.1 (1) [*endorsed candidate penalties for elector organization failing to file disclosure documents or disclosing false or misleading information*];

(iv) section 68.01 (3) [*candidate penalties for exceeding expense limits*]. , and

(b) by repealing subsection (4) and substituting the following:

(4) As soon as practicable after a vacancy occurs for which an election under this section is to be held, the Council must

(a) appoint a chief election officer for the election, and

(b) notify the minister of the election.

(4.1) As soon as practicable after the appointment under subsection (4) (a), the chief election officer must notify the BC chief electoral officer of the election.

Explanatory Note

SECTION 46: [*Vancouver Charter, section 42*] requires a notice of nomination to include information about expense limits and third party advertising limits.

46 Section 42 (2) is amended by adding the following paragraphs:

(c.1) the expense limits,

(i) made publicly available under section 63.04 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 63.05 of the *Local Elections Campaign Financing Act*;

(c.2) the following information about third party advertising:

(i) the third party advertising limits,

(A) made publicly available under section 41.3 (2) of the *Local Elections Campaign Financing Act*, that apply to the election area, or

(B) if the election is a by-election, that apply to the election area under section 41.4 of the *Local Elections Campaign Financing Act*;

(ii) the third party advertising limits, made publicly available under section 41.3 (2) of the *Local Elections Campaign Financing Act*, that applies; .

Explanatory Note

SECTION 47: [*Vancouver Charter, section 122*] provides rules for the retention of nomination and endorsement documents.

47 Section 122 (2) is repealed and the following substituted:

(2) After the end of the period for conducting a judicial recount, the City Clerk

(a) is responsible for retaining the materials referred to in subsection (1) (a) to (c), and

(b) must retain the nomination documents and endorsement documents referred to in subsection (1) (b) until 5 years after the general voting day for the election for which the documents relate.

(2.1) Subsection (2) (b) applies to documents retained in respect of the 2014 general local election and all subsequent elections.

(2.2) The City Clerk is not in contravention of subsection (2) (b) if, under section 76 of the *Local Elections Campaign Financing Act*, the city is required to provide the documents to the BC chief electoral officer.

Commencement

48 This Act comes into force on the date of Royal Assent.