

1997

CHAPTER 40

An Act to amend *The Local Government Election Act*

(Assented to May 21, 1997)

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

Short title

1 This Act may be cited as *The Local Government Election Amendment Act, 1997*.

S.S. 1982-83, c.L-30.1 amended

2 *The Local Government Election Act* is amended in the manner set forth in this Act.

New sections 22.1 to 22.3

3 Sections 22.1 and 22.2 are repealed and the following substituted:

“Procedure for electors with physical disabilities or limited mobility

22.1(1) Subject to subsections (2) and 28(3), the council or board may provide for the attendance of the returning officer or a deputy returning officer and a poll clerk at the residence of an elector during the time when polls are open for voting in order to take the vote within the municipality or school division of an elector at an election who, because of physical disability or limited mobility, is unable to attend an established polling place to vote.

(2) Where a school division is situated wholly or substantially within a municipality and, pursuant to subsection 28(1), the clerk or another person appointed by the council is the returning officer with respect to both the municipal election and the board election, only the council may make provision pursuant to subsection (1) for the taking of votes for both those elections.

(3) Where the council or board has made provision for the taking of votes of electors with physical disabilities or limited mobility pursuant to subsection (1), an elector, or a person acting on behalf of the elector, may apply in writing in accordance with subsection (4) to the returning officer to have the elector's vote taken in the manner provided in subsection (1).

(4) An application made pursuant to subsection (3) shall:

- (a) be in the form prescribed by the regulations;
- (b) be made in the manner and within the time prescribed by the board or council; and
- (c) set out the elector's name and address and the reason the elector is not able to attend at an established polling place to vote.

- (5) Where the returning officer receives an application pursuant to this section from an elector, the returning officer shall include the elector's name and address, arranged alphabetically or geographically, on a list in the prescribed form of electors entitled to vote at the election pursuant to this section.
- (6) Where the returning officer has completed the list in accordance with this section, the returning officer shall advise each applicant in writing in the prescribed form:
- (a) that the name and address of the applicant has been entered on the list of electors entitled to vote at the election pursuant to this section; and
 - (b) of the approximate time during the advance poll or on election day when the applicant's vote will be taken pursuant to this section.
- (7) The returning officer shall, on receipt of a request in writing from a candidate or an agent of a candidate, provide the candidate or agent of the candidate with a copy of the list completed pursuant to subsection (5).
- (8) Subject to subsection (9), every residence where a vote is taken pursuant to this section is deemed to be a polling place, and the procedures for voting provided by this Act apply, with any necessary modification, in and to each residence where a vote is taken pursuant to this section.
- (9) The persons mentioned in clauses 71(b) and (c) are not entitled to be present at the residence of an elector voting pursuant to this section.
- (10) Where wards have been established in a school division where an election is to be held, the returning officer shall maintain separate ballot boxes for each ward for the purposes of this section.
- (11) Where the council or board makes provision for the taking of the votes of electors pursuant to subsection (1), the returning officer shall include, in the notice of poll given pursuant to section 55, particulars of the provisions that will be made to enable electors to vote pursuant to this section.

“Inaccessible polling place

- 22.2(1)** This section applies to electors who attend at a polling place to vote but are unable to enter the polling place because of physical disability or limited mobility.
- (2) An elector mentioned in subsection (1), or a person acting on behalf of the elector, may make an oral or a written request to the returning officer or deputy returning officer to vote at the location to which the elector has access that is nearest to the polling place.
- (3) If a request is made pursuant to subsection (2), the returning officer or deputy returning officer shall, unless it is not possible, attend the elector at the location to which the elector has access that is nearest to the polling place during the time when polls are open for voting in order to take the vote of the elector.
- (4) The procedures for voting provided by this Act apply, with any necessary modification, in and to each location where a vote is taken pursuant to this section.

(5) The returning officer or deputy returning officer may, after permitting those electors who have received ballots to vote in the polling place, temporarily suspend voting proceedings in the polling place to allow an elector to vote pursuant to this section.

“Use of ballot boxes

22.3(1) Where the returning officer is of the opinion that the number of electors who are likely to vote:

- (a) at an advance poll;
- (b) at a polling place established pursuant to section 22; or
- (c) pursuant to section 22.1;

will be small and as a result it may be possible to determine for which candidate any of the electors voted, the returning officer may, notwithstanding any other provision of this Act, provide for the use of the same ballot box or boxes at the advance poll, for a polling place established pursuant to section 22, for voting pursuant to section 22.1 and for voting on election day.

(2) Where the returning officer uses any ballot box pursuant to subsection (1), the returning officer shall comply with any regulations made pursuant to section 160 governing the use of the box for taking the votes of electors in those circumstances”.

Section 26 amended

4 Subclause 26(b)(ii) is amended:

- (a) by striking out “or” after paragraph (A);**
- (b) by striking out “and” after paragraph (B) and substituting “or”; and**
- (c) by adding the following after paragraph (B):**

“(C) is the spouse of a person mentioned in paragraph (A) or (B); and”.

New section 59.1

5 Section 59.1 is repealed and the following substituted:

“Voting machines

59.1(1) If this section or any regulations made pursuant to this section conflict with any other provision of this Act or any other Act or any other regulations, this section and the regulations made pursuant to this section prevail.

(2) Notwithstanding any other provision of this Act or *The Controverted Municipal Elections Act* but subject to any regulations made pursuant to subsection (7), the council, or where the board conducts the election, the board, may, by bylaw in the case of a council and by resolution in the case of a board, provide for the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other similar devices.

(3) Subject to the provisions of this section, the returning officer or the deputy returning officer may make any modifications to the requirements of this Act or *The Controverted Municipal Elections Act* that are necessary to deal with a vote taken in accordance with this section.

- (4) A bylaw or resolution mentioned in subsection (2):
- (a) must include provisions:
 - (i) respecting the form of ballot; and
 - (ii) respecting procedures for voting and for counting votes; and
 - (b) may include provisions respecting any other matter that the council or board considers necessary or advisable.
- (5) The municipality or school division shall forward a copy of the bylaw or resolution, as the case may be, to the minister promptly after it is passed.
- (6) The failure to forward a copy of a bylaw or resolution pursuant to subsection (5) does not affect the validity of the bylaw or resolution.
- (7) The Lieutenant Governor in Council may make regulations:
- (a) prescribing requirements, limits and conditions in relation to voting pursuant to this section, including prescribing different requirements, limits and conditions for different municipalities or school divisions or classes of municipalities or school divisions;
 - (b) prescribing that this section does not apply to specified municipalities or school divisions or classes of municipalities or school divisions;
 - (c) respecting any matter that the Lieutenant Governor in Council considers necessary for the purpose of conducting elections with the devices mentioned in subsection (2).
- (8) Subject to any regulation made pursuant to subsection (7), a judge who determines pursuant to this Act that a recount of ballots counted by a device mentioned in subsection (2) is required:
- (a) shall determine whether the recount or any part of it is to be conducted manually, by using the device, or both; and
 - (b) notwithstanding subsection (3), may make any modifications to the requirements of this Act or *The Controverted Municipal Elections Act* that are necessary to deal with a recount in which a device mentioned in subsection (2) is used".

Section 71 amended

6 Section 71 is amended:

- (a) **in clause (d):**
 - (i) **by striking out** "otherwise incapacitated" **and substituting** "has any other disability"; **and**
 - (ii) **by adding** "or her" **after** "his"; **and**
- (b) **in clause (e) by adding** "or her" **after** "his".

Section 89 amended

7 Subsection 89(1) is amended in the portion preceding clause (a) by striking out “incapacitated by any physical cause from voting” and substituting “unable, for any physical reason, to vote”.

Coming into force

8(1) Subject to subsection (2), this Act comes into force on assent.

(2) Sections 4 and 5 of this Act come into force on assent but are retroactive and are deemed to have been in force on and from January 1, 1997.