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Bill 150

An Act to enact the Ensuring Transparency and Integrity in Political Party Elections Act, 2019

Mrs. B. Karahalios

Private Member's Bill

1st Reading November 26, 2019

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill enacts the *Ensuring Transparency and Integrity in Political Party Elections Act, 2019*. The Act provides rules relating to the election of an official party candidate for an electoral district, the election of a leader of a political party and the election of a president of a political party.

The Act requires a report to be filed with the Chief Electoral Officer within seven days after an election and the report must set out, among other things, the number of persons who were eligible to vote in the election, the number of person who voted and the number of votes that each candidate received. The Chief Electoral Officer must publish the information in the report on the Internet. It is an offence not to file a report or to make a false statement in a report.

The Act permits a candidate to contest the validity of an election by commencing an action in the Superior Court of Justice.

The Act sets out various offences relating to voting in an election, including voting when not being eligible to vote or voting more than once, mishandling ballot papers, furnishing false or misleading information to an election official, or inducing or procuring an unqualified person to vote. The penalty for these offences is a fine of not more than \$5,000. If any of those offences is committed knowingly, the person is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than two years less a day, or to both. It is also an offence to wilfully miscount ballots and the penalty is a fine of not more than \$25,000 or imprisonment for a term of not more than two years less a day, or to both.

Provisions in the *Election Finances Act* that require the reporting and publication of information relating to nomination contests are repealed. Those requirements are re-enacted in the *Ensuring Transparency and Integrity in Political Party Elections Act, 2019*.

**An Act to enact the Ensuring Transparency and Integrity in
Political Party Elections Act, 2019**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

Definitions

1 (1) In this Act,

“ballot” means a ballot used for the conduct of an election; (“bulletin de vote”)

“election” means,

- (a) the selection, by vote, of an official party candidate for an electoral district,
- (b) an election of the leader of a registered party, or
- (c) an election of the president or of an equivalent position of a registered party. (“election”)

Interpretation

(2) Expressions used in this Act that are not otherwise defined have the same meaning as in the *Election Finances Act*.

REPORTING REQUIREMENTS

Reporting, nomination contest

2 (1) When a candidate is nominated with respect to a registered party for an electoral district, the leader of the registered party, shall, within seven days after the candidate is selected, file with the Chief Electoral Officer a report setting out the following:

1. The name of the electoral district, the registered constituency association and the registered party that the nomination concerns.
2. The date on which the contest for the nomination began and the date on which the candidate was selected.
3. The name and address of each nomination contestant as of the date the candidate was selected, and of their chief financial officer.
4. The name of the candidate who was selected.
5. The number of persons who were eligible to vote in the contest.
6. The number of persons who voted in the contest.
7. The number of votes each registered nomination contestant received.

Notice and publication

(2) The Chief Electoral Officer shall,

- (a) communicate to each nomination contestant the information that was reported with respect to that contestant under subsection (1); and
- (b) publish on a website on the Internet a notice containing the information referred to in subsection (1).

Reporting, appointed candidates

(3) Promptly after a candidate is appointed with respect to a registered party for an electoral district, the leader of the registered party shall notify the Chief Electoral Officer of the name of the candidate who was selected.

Reporting, leadership contest

3 (1) When a person is elected as leader of a registered party, the chief financial officer of the party shall, within seven days after the person is elected, file with the Chief Electoral Officer a report setting out the following:

1. The name of the registered party that the election concerns.
2. The date on which the contest for the election began and the date of the leadership vote.
3. The name and address of each leadership contestant as of the date of the leadership vote.
4. The name of the person who was elected as leader.
5. The number of persons who were eligible to vote for a registered leadership contestant, based on the registered party's rules governing the leadership contest.
6. The number of persons who voted in the leadership contest.
7. The number of votes that each registered leadership contestant received.
8. If more than one ballot was required to elect the leader, the report must set out the information required by paragraphs 6 and 7 for each ballot.
9. If the registered party's rules governing the leadership contest provide for a special formula for determining the number of votes that each registered leadership contestant received after each ballot, the report must set out, in addition to setting out the number of votes as required by paragraph 7, the number of votes that each registered leadership contestant received after the special formula was applied for each ballot.

Notice and publication

- (2) The Chief Electoral Officer shall,
- (a) communicate to each leadership contestant the information that was reported with respect to that contestant under subsection (1); and
 - (b) publish on a website on the Internet a notice containing the information referred to in subsection (1).

Reporting, appointed candidates

(3) Promptly after a candidate is appointed as leader of a registered party, the chief financial officer of the party shall notify the Chief Electoral Officer of the name of the candidate who was appointed.

Reporting, party president contest

4 (1) When a person is elected as president, or the equivalent, of a registered party, the chief financial officer of the party shall, within seven days after the person is elected, file with the Chief Electoral Officer a report setting out the following:

1. The name of the registered party that the election concerns.
2. The date on which the contest for the election began and the date on which polling took place in respect of the election.
3. The name and address of each candidate as of the date on which polling took place in respect of the election.
4. The name of the person who was elected.
5. The number of persons who were eligible to vote in the contest.
6. The number of persons who voted in the contest.
7. The number of votes each candidate received.

Notice and publication

- (2) The Chief Electoral Officer shall,
- (a) communicate to each candidate the information that was reported with respect to that candidate under subsection (1); and
 - (b) publish on a website on the Internet a notice containing the information referred to in subsection (1).

Reporting, appointed candidates

(3) Promptly after a candidate is appointed as president, or the equivalent, of a registered party, the chief financial officer of the party shall notify the Chief Electoral Officer of the name of the candidate who was appointed.

Forms

5 All information required to be filed with the Chief Electoral Officer shall be filed in the form prescribed therefor by the Chief Electoral Officer.

Information on file with Chief Electoral Officer

6 Section 15 of the *Election Finances Act* applies with respect to reports filed with the Chief Electoral Officer under this Act.

CONTESTED ELECTIONS

Validity of election, determination by action

7 (1) The validity of an election shall be tried and determined by an action commenced in the Superior Court of Justice.

Who may commence action

(2) A candidate at an election may commence an action.

Time for commencing action

(3) No action shall be commenced after the expiration of 30 days following the date of the election.

Special requirements

(4) When an action is commenced, security shall be given on behalf of the plaintiff in the amount of \$2,000, in accordance with the practice in cases where a plaintiff resides out of Ontario.

Purpose of security

(5) The security given under subsection (4) is to be applied towards payment of the costs, charges and expenses, if any, that become payable by the plaintiff.

Practice and procedure

8 (1) Subject to the rules of court, the practice and procedure of the Superior Court of Justice apply to an action commenced under section 7.

Judge without jury

(2) The action shall be tried by a judge without a jury.

Appeals to Court of Appeal

9 (1) An appeal lies from the judgment of the Superior Court of Justice to the Court of Appeal.

Appeal to be heard speedily

(2) The appeal shall be heard as speedily as practicable.

Judgment or new trial

(3) The Court of Appeal may give any judgment that ought to have been pronounced or may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Court of Appeal, the case shall thereafter be proceeded with as if there had been no appeal.

Appeal from decision on new trial

(4) An appeal lies from the decision of the trial judge to whom the case was remitted by the Court of Appeal in accordance with the provisions of this section.

OFFENCES

Offence for false statement in report

10 No person shall knowingly make a false statement in any report filed with the Chief Electoral Officer under this Act.

Failure to file reports

11 If a chief financial officer of a registered party or a leader of a registered party knowingly contravenes section 2, 3 or 4,

- (a) the chief financial officer or the leader, as the case may be, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000; and
- (b) the registered party is also guilty of an offence and on conviction is liable to a fine of \$50 for each day that the default continues.

Voting when not qualified, etc.

12 Every person who, at an election,

- (a) not being eligible to vote, votes; or
- (b) being eligible to vote, votes more than once,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Wilful miscount of ballots

13 Any person responsible for counting the ballots for an election who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than two years less a day, or to both.

Offences relating to ballot papers

14 Every person who,

- (a) without being authorized to do so by a registered party or registered constituency association, as the case may be,
 - (i) supplies a ballot to any person,
 - (ii) places in a ballot box anything other than an official ballot, or
 - (iii) is found to be in possession of, takes, opens or otherwise interferes with, a ballot box, a ballot or books or a packet of ballots provided for use at, in use at, or used for the purpose of an election;
- (b) gives any paper other than a ballot for the purposes of being placed in the ballot box;
- (c) takes a ballot out of the polling place;
- (d) being authorized by a registered party or registered constituency association, as the case may be, to print the ballots for an election, prints more than he, she or it is authorized to print; or
- (e) attempts to commit any offence mentioned in this section,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Furnishing false information

15 Every person who furnishes false or misleading information to any person who is authorized by the registered party or registered constituency association, as the case may be, to act as an election official is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Inducing unqualified person to vote, etc.

16 Every person who induces or procures any person to vote who has no right to vote is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Penalty if offence committed knowingly

17 If, when a person is convicted of an offence under section 12, 14, 15 or 16, the presiding judge finds that the offence was committed knowingly, the person is liable to one or both of the following:

1. A fine of not more than \$25,000, instead of the fine that would otherwise apply.
2. Imprisonment for a term of not more than two years less a day.

General offence

18 Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Style of prosecution

19 A prosecution for an offence under this Act may be instituted against a registered political party or registered constituency association in its own name and, for the purposes of the prosecution, the registered political party or registered constituency association is deemed to be a person.

Vicarious responsibility

20 Anything done or omitted by an officer, official or agent of a registered political party or registered constituency association within the scope of his or her authority to act on its behalf is deemed to be a thing done or omitted by the registered political party or registered constituency association.

CONSEQUENTIAL AMENDMENT, COMMENCEMENT AND SHORT TITLE***Election Finances Act***

21 Subsections 41.1 (1), (2) and (2.1) of the *Election Finances Act* are repealed.

Commencement

22 This Act comes into force on the day it receives Royal Assent.

Short title

23 The short title of this Act is the *Ensuring Transparency and Integrity in Political Party Elections Act, 2019*.