



ELECTIONS BC

A non-partisan Office of the Legislature

GUIDE TO ELECTION COMMUNICATIONS

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Introduction

The *Election Act* sets the rules for the provincial electoral process. This guide explains the sections of the Act that deal with election communications. It outlines the Act's provisions regarding election advertising, election opinion surveys, and campaigning near election offices and voting places.

This guide is intended only as an aid to understanding the *Election Act*. How the Act applies to any particular case will depend on the individual circumstances of the case, and may change in light of new legislative and judicial developments. Where there is an inconsistency between this guide and the *Election Act*, the Act will prevail.

Where possible, references to specific sections of the Act are included.

You can view the *Election Act* on the Elections BC website (www.elections.bc.ca) or you can buy a copy of the Act from Crown Publications (www.crownpub.bc.ca).

A glossary of terms related to elections communications begins on page 17.

General information

s. 228 **Definition of election advertising**

Election advertising is the transmission, by any means, of an advertising message to the public that:

- is transmitted during the period that begins 60 days before a campaign period and ends at the close of general voting for the election, and
- promotes or opposes, directly or indirectly, a registered political party or the election of a candidate. This includes taking a position on an issue with which a candidate or registered political party is associated.

Important: The 60 day pre-campaign period only applies for a fixed date general election. For by-elections or non-fixed date general elections not conducted in accordance with section 23(2) of the *Constitution Act*, the 60 day pre-campaign period does not apply and the election advertising rules only apply to the campaign period itself.

The definition of election advertising is broad, and in some cases it can be difficult to determine if an item or activity is election advertising. Election advertising certainly includes signs, posters, leaflets, billboards, brochures, and advertisements in newspapers, magazines, newsletters, and on television, radio, and the internet.

s. 228 **What election advertising does not include**

Election advertising does not include:

- news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary published without charge in a bona fide periodical or on a radio or television program,
- the distribution or promotion of a book for no less than its commercial value, if the book was planned to be made public regardless of whether there was to be an election,
- documents sent by a person or a group directly to their members, employees or shareholders, or
- the transmission by an individual of their personal political views, on a non-commercial basis on the internet, or by telephone or text messaging.

Personal social networking pages and blogs are generally not election advertising, unless they are created to promote or oppose a candidate or a registered political party, or the blogger is operating their site on a commercial basis. If they are, the sponsor of the content must be registered with Elections BC.

Sponsoring election advertising

s. 229 **Definition of election advertising sponsor**

The sponsor of election advertising is:

- the individual or organization who pays for it, or
- the individual or organization who receives the services of conducting the advertising without charge as a contribution.

If election advertising is paid for or the services are provided without charge on another individual or organization's behalf, the other individual or organization is the sponsor.

s. 230, 239 **Who can sponsor election advertising**

The *Election Act* limits who can sponsor election advertising.

Election advertising can only be sponsored by:

- candidates,
- registered political parties,
- registered constituency associations, and
- individuals and organizations who are registered as advertising sponsors with Elections BC. Also called third party advertisers, registered advertising sponsors must be independent of registered political parties, registered constituency associations, candidates and their agents, and must not sponsor election advertising on behalf of or together with them.

Election advertising cannot be sponsored indirectly. This means that election advertising cannot be sponsored through another individual or organization, or with another individual or organization's property.

s. 229, 231, 283 **Sponsorship must be indicated**

Election advertising must not be sponsored, or published, broadcast or transmitted to the public unless it:

- identifies the name of the sponsor, or:
 - in the case of a candidate, identifies the name of their financial agent or the financial agent of their registered political party,
 - in the case of a numbered corporation or unincorporated organization, identifies the name of the organization and the name of a principal officer or principal member,
- states that it was authorized by the identified sponsor or financial agent,
- gives a British Columbia telephone number or mailing address where the sponsor or financial agent can be contacted, and
- in the case of a third party advertiser, indicates that they are registered under the *Election Act*.

For example:

Authorized by Jane Doe, financial agent, 250-123-4578

Authorized by Jane Doe, registered sponsor under the Election Act, 250-234-5678

Authorized by Good Guys Club; Jane Doe: registered sponsor under the Election Act, 250-234-5678

Authorized by XYZ Political Party, 604-123-4567

Advertising sponsors must make a person available to answer any questions directed to the address or telephone number shown in the advertising.

The Chief Electoral Officer, or someone acting on the direction of the Chief Electoral Officer, may remove and destroy any election advertising that does not meet these requirements. The sponsor of the election advertising does not need to be notified if this happens.

The Chief Electoral Officer can exempt certain classes of election advertising from these requirements, including items that may reasonably be considered:

- clothing,
- a novelty item, or
- an item intended for personal use.

For a current list of exempted items, visit the Elections BC website (www.elections.bc.ca) or contact Elections BC.

Registering as an advertising sponsor

s. 240

How to register

Except for candidates, registered political parties and registered constituency associations, any individual or organization that wants to sponsor election advertising must register with Elections BC. Individuals and organizations that do so are called registered advertising sponsors or, more commonly, third party advertisers.

Individuals and organizations that are registered advertising sponsors must be independent of registered political parties, registered constituency associations, candidates and their agents, and must not sponsor election advertising on behalf of or together with them.

To register, applicants must complete an application form. Application forms are available on the Elections BC website (www.elections.bc.ca) or by contacting Elections BC.

The advertising sponsor registration form requires:

- the applicant's full name, and, in the case of an organization, its usual name,
- the applicant's full address,
- in the case of an organization, the names of its principal officers or, if there are no principal officers, the names of its principal members,
- the address at which the applicant will receive notices and communications sent under the *Election Act*, and
- the applicant's telephone number.

The form must be signed by the individual applicant or, in the case of an organization, two principal officers. If the organization has no principal officers, the form must be signed by two principal members.

The form includes a solemn declaration stating that the applicant:

- is not prohibited from registering, and
- will not sponsor election advertising in order to circumvent the election expenses limits for candidates and registered political parties.

The solemn declaration must be witnessed by a Commissioner for Taking Affidavits in British Columbia or another individual authorized to witness the declaration. This includes the Chief Electoral Officer, notaries public, barristers, solicitors, District Electoral Officers and Government Agents. Solemn declarations will be taken at no charge by the Chief Electoral Officer, authorized staff of Elections BC, District Electoral Officers and Government Agents.

If any information about the advertising sponsor on the form changes, the sponsor must notify the Chief Electoral Officer in writing within 30 days after the change occurs.

s. 242 **Voluntary deregistration**

A registered advertising sponsor can apply to be deregistered. To do so, they must submit a request in writing to the Chief Electoral Officer. The request must be signed by the individual sponsor or two principal officers of the sponsor organization. If there are no principal officers, the deregistration request must be signed by two principal members of the applicant organization.

If a registered advertising sponsor sponsored election advertising during a campaign period, they cannot deregister until they have filed an election advertising disclosure report.

Registered advertising sponsors that deregister voluntarily can reregister at a later date.

s. 243 **Reregistration**

If a registered advertising sponsor is deregistered because they did not submit an election advertising disclosure report or they did not pay a fee, they cannot reregister until they have filed the report or paid the fee.

Obligations of a sponsor

s. 241, 249 **Recording contributions**

Advertising sponsors may accept contributions to help pay for election advertising.

Certain information about each contribution must be recorded, including:

- the date the contribution was made,
- the value of the contribution,
- the full name and address of the contributor,
- the class of the contributor (see below), and
- if the contributor is a numbered corporation or a class 3,4,5 or 6 contributor (see below), the full names and addresses of two people who are:
 - directors of the organization, or
 - principal officers or principal members of the organization.

The classes of contributors are:

1. individuals
2. corporations
3. unincorporated organizations engaged in business or commercial activities
4. trade unions
5. non-profit organizations
6. other identifiable contributors
7. anonymous contributors

If a contribution was made anonymously, the advertising sponsor must record the date it was received, its value and, if applicable, the event at which the contribution was received.

Advertising sponsors must keep track of all the contributions they receive. They may have to report the contributions they receive during the period that begins six months before a campaign period and ends at the close of general voting for the election.

At a minimum, advertising sponsors must keep their contribution records for five years from the date of filing their disclosure reports. The Chief Electoral Officer can extend this period. Records must be kept in British Columbia.

s. 244 **Filing a disclosure report**

An individual or organization must file an election advertising disclosure report if they sponsored election advertising worth, in total, \$500 or more during the period beginning 60 days before a campaign period and ending at the close of general voting for the election.

Important: The 60 day pre-campaign period only applies for a fixed date general election, and does not apply to a by-election or a non-fixed date general election not conducted in accordance with section 23(2) of the *Constitution Act*.

Advertising disclosure reports must be filed within 90 days after General Voting Day.

Candidates, registered political parties and registered constituency associations do not need to file separate disclosure reports. Their advertising expenses are included in their election financing reports.

If any of the information on the disclosure report changes, or if the advertising sponsor learns that some information was wrong, they must file a supplementary report. Supplementary reports must be filed within 30 days of learning of the change or mistake.

s. 246 **30 day late filing period**

A registered advertising sponsor may file their election advertising disclosure report up to 30 days after the deadline if they pay a \$500 late filing fee.

s. 245

What the disclosure report must contain

The disclosure report must be on forms provided by Elections BC and include:

- the value of the election advertising sponsored,
- the amount of the contributions accepted during the period that begins six months before a campaign period and ends at the close of general voting for the election,
- any amount of the sponsor's assets, other than the assets received by contributions, used to pay for election advertising,
- the amount of contributions received from each of the following classes:
 1. individuals
 2. corporations
 3. unincorporated organizations engaged in business or commercial activity
 4. trade unions
 5. non-profit organizations
 6. other identifiable contributors
 7. anonymous contributors, and
- the dates and amounts of any anonymous contributions and if applicable, the events at which they were received.

If an advertising sponsor's records show that a contributor gave, in total, more than \$250 in money during the reporting period, the advertising sponsor must report:

- the contributor's full name,
- the contributor's class (see above),
- the value of each contribution and the date it was made, and
- if the contributor is a numbered corporation or a class 3,4,5 or 6 contributor, the full names and addresses of at least two individuals who are:
 - directors of the organization, or
 - principal officers or principal members of the organization.

s. 250

Information to be open to the public

The disclosure reports filed by election advertising sponsors are available to the public. To view the disclosure reports, visit the Elections BC website (www.elections.bc.ca) or the Elections BC office in Victoria.

Election advertising limits

s. 235.1 **Third party limits**

The *Election Act* limits the value of election advertising that registered advertising sponsors (third party advertisers) can sponsor.

The total value of election advertising sponsored during the campaign period by a third party advertiser cannot be more than:

- \$3,000 in relation to one electoral district, and
- \$150,000 in the province overall.

These limits apply during the campaign period which begins on the day the election is called and ends at the close of general voting for the election.

For elections called after January 1, 2010, these limits will be adjusted for changes to the consumer price index.

Note: Although the *Election Act* also includes spending limits for third party advertisers during the 60 day pre-campaign period, the court has found these limits to be unenforceable.

Election advertising rates

s. 232 **Restriction on rates**

Registered political parties, registered constituency associations and candidates must be charged equivalent rates for equivalent election advertising.

Specifically, an individual or organization cannot charge these clients more for election advertising than the lowest rate it charged for equivalent advertising in the same medium during the same campaign period.

This restriction applies to election advertising sponsored by registered political parties, registered constituency associations and candidates. Third party advertising sponsors may be charged any rate for election advertising.

Restrictions on displaying election advertising, campaigning and opinion surveys

s. 233

Election advertising on General Voting Day

On General Voting Day, election advertising must not be published, transmitted or broadcast in an electoral district until the close of all voting stations in the electoral district. Voting stations close at 8 p.m. (Pacific time), unless the District Electoral Officer extends the time for voting.

This restriction does not apply to:

- a notice of an event the leader of a registered political party plans to attend,
- an invitation to meet or hear the leader of a registered political party,
- a message transmitted to the public on the internet before General Voting Day that is not changed before the close of voting stations, or
- the distribution of pamphlets, or the posting of signs, posters or banners.

Election campaign signs on highways

The Ministry of Transportation allows registered political parties and candidates to post election posters and signs on highway rights-of-way under certain conditions. Third party signs are not permitted.

The following conditions apply to the posting of election signage on highway rights-of-way:

- must only be posted after the writ of election has been issued,
- must be removed the day following an election,
- must be further from the road than traffic signs,
- must not be posted on highway structures (e.g. tunnels, bridges, overpasses),
- must not obstruct, imitate or be attached to any traffic control device, and
- must not pose a traffic hazard in any way.

There are some exceptions to these conditions. Election campaign posters and signs are not allowed to be placed on:

- Highways within Provincial Parks,
- Highway 1, from Horseshoe Bay to Hope,
- Highway 5, from Hope to Kamloops,
- Highway 19 – Duke Point – from Duke Point Ferry Terminal to Trans Canada Highway,
- Highway 19 – Nanaimo Parkway – from Trans Canada Highway to Island Highway,
- Highway 19 (Parksville to Campbell River),

- Highways 91 and 91A,
- Highway 99, from the United States' border to Horseshoe Bay,
- Highway 17, from Tsawwassen ferry terminal to Highway 99, and
- Highway 97C, from Aspen Grove to Peachland.

Individual municipalities may have additional rules about campaign posters and signs. Candidates, political parties and election advertising sponsors should check the by-laws in any municipality where they wish to erect signs.

s. 228.1 **Election advertising in rental and strata units**

Renters and strata owners may display election advertising posters in their residences.

Landlords and strata corporations can set reasonable conditions on the size and type of posters that can be displayed. They can also prohibit posters from being displayed in common areas.

s. 234 **Campaigning near election offices and voting places**

Election offices

During a campaign period, there is a 100-metre no-campaigning zone around the building where the office of the District Electoral Officer (DEO) is located. Within this zone, no one may post, display or distribute:

- election advertising, or
- any material that identifies a candidate, registered political party or registered constituency association, unless it is with the authorization of the DEO.

Voting places

There is a similar 100-metre zone around any building where voting is being conducted during advance voting and general voting. Within this zone, no one may:

- post, display or distribute election advertising,
- post, display or distribute any material that identifies a candidate, registered political party or registered constituency association, unless it is with the authorization of the DEO,
- canvass or solicit votes or attempt to influence how a voter votes,
- carry, wear or supply flags, badges or anything else that indicates support for a candidate or registered political party, or

- post, display, distribute or openly leave a representation of a ballot marked for a candidate or registered political party.

While the 100-metre zone is in effect, no one may publish, broadcast or transmit election advertising by means of a public address system or loudspeaker that is within hearing distance of a voting place.

s. 233.1 (1) **Definition of election opinion survey**

An election opinion survey is an opinion survey respecting an election or a matter of public discussion in relation to the election. This includes opinion surveys respecting an issue discussed publicly in the election.

s. 233.1 **Publishing election opinion surveys on General Voting Day**

On General Voting Day, the results of election opinion surveys that have not previously been made public must not be published, broadcast or transmitted until all of the voting stations in the electoral district are closed.

Offences and penalties

s. 244, 247 **Not filing a disclosure report**

If a registered advertising sponsor does not file an election advertising disclosure report with the Chief Electoral Officer within 90 days after General Voting Day, or does not file the report before the end of the 30 day late filing period and pay the \$500 late filing fee, the sponsor:

- is deregistered as an advertising sponsor and cannot reregister until after the next general election, and
- must pay \$500 for each day the report is unfiled.

If the sponsor is an unincorporated organization, its members will be jointly and severally liable to pay the \$500 per day penalty.

s. 248 **Court order for relief from filing obligations**

A registered advertising sponsor may apply to the Supreme Court of British Columbia for relief from an obligation to file an election advertising disclosure report or from a penalty in relation to the filing of a report.

s. 235.2 **Exceeding third party advertising limits**

If a registered advertising sponsor exceeds the advertising limits (see Third party limits), they:

- are deregistered as an advertising sponsor and cannot reregister until after the next general election, and
- are required to pay a penalty that is 10 times the amount by which they exceeded the limit.

If the sponsor is an unincorporated organization, its members will be jointly and severally liable to pay the penalty.

s. 264

Other election advertising offences

It is an offence to contravene the election communications sections of the *Election Act*.

Examples of election communications offences include, but are not limited to:

- sponsoring election advertising if not registered as a sponsor,
- sponsoring election advertising indirectly,
- displaying election advertising that does not identify the sponsor, and
- conducting election advertising on General Voting Day before the close of all voting stations in the electoral district.

For a complete list of elections communications offences, please consult section 264 of the *Election Act*.

Individuals and organizations convicted of contravening the election communications sections of the Act are liable to a fine of up to \$10,000 or imprisonment for up to one year, or both.



Glossary

Advance voting	<p>An opportunity to vote before General Voting Day. Advance voting is held between 8 a.m. and 8 p.m. on the Wednesday, Thursday, Friday and Saturday of the week before General Voting Day.</p> <p>[<i>Election Act</i>, s. 76, 97]</p>
Campaign period	<p>The time between when an election is called and the close of voting on General Voting Day.</p> <p>[<i>Election Act</i>, s. 1]</p>
Candidate	<p>An individual who stands for election to the Legislative Assembly. To become a candidate, an individual must meet the requirements of the <i>Election Act</i>, file nomination documents, and receive a certificate of candidacy from Elections BC.</p> <p>For election financing and election advertising purposes, a candidate includes an individual who becomes a candidate or who was a candidate.</p> <p>[<i>Election Act</i>, s. 1, 52-68]</p>
Chief Electoral Officer (CEO)	<p>An independent Officer of the Legislature appointed by the Lieutenant Governor on the recommendation of the Legislative Assembly. The Chief Electoral Officer supervises and administers the provincial electoral process.</p> <p>[<i>Election Act</i>, s. 1, 4-13]</p>
Constituency association	<p>An organization formed for an electoral district as the local organization of a political party or as the local organization to support an independent Member of the Legislative Assembly for that electoral district.</p> <p>[<i>Election Act</i>, s. 157]</p>
Contribution	<p>Money provided to a sponsor of election advertising, whether given before or after the sponsor acts as a sponsor. A “contribution” differs from a “political contribution.”</p> <p>[<i>Election Act</i>, s. 228]</p>

District Electoral Officer (DEO)	A person appointed by the Chief Electoral Officer to conduct elections in an electoral district. [<i>Election Act</i> , s. 18-21, 88]
Elections BC (EBC)	The usual name for the Office of the Chief Electoral Officer. Elections BC administers the electoral process in B.C. This includes provincial general elections and by-elections, provincial referendums, and recall and initiative petitions and votes.
Electoral district (ED)	A geographic area represented by a single Member of the Legislative Assembly (MLA). Electoral districts are also called constituencies or ridings. [<i>Constitution Act</i> , s. 18; <i>Electoral Districts Act</i>]
Financial agent	An individual appointed to manage the finances of an individual or group. Registered political parties, registered constituency associations, candidates, leadership contestants, and recall and initiative participants must appoint a financial agent. [<i>Election Act</i> , s. 175-178; <i>Recall and Initiative Act</i> , s. 29, 59, 107]
General election	Elections called on the same date for all the electoral districts in the province. [<i>Election Act</i> , s. 1, 24, 26-28]
General Voting Day (GVD)	The day when an election is held. General Voting Day is Day 28 (the 28th day after the election is called). If it is a holiday, then General Voting Day is the next day that is not a holiday. [<i>Election Act</i> , s. 27]
Independent	A candidate or MLA who does not represent a political party. [<i>Election Act</i> , s. 1]
Member of the Legislative Assembly (MLA)	A person elected to represent an electoral district in the Legislative Assembly. [<i>Constitution Act</i> , s. 18]

Political party	<p>An organization that has as a primary purpose the fielding of candidates for election to the Legislative Assembly.</p> <p>[<i>Election Act</i>, s. 155]</p>
Third party advertiser	<p>Another name for individuals and organizations, other than candidates, registered political parties and registered constituency associations, who sponsor election advertising. Third party advertisers cannot sponsor election advertising unless they are registered with Elections BC.</p> <p>[<i>Election Act</i>, s. 239]</p>
Time	<p>All times referred to in the <i>Election Act</i> are local times, except for the close of nominations and voting hours on General Voting Day, which are Pacific time.</p> <p>[<i>Election Act</i>, s. 2]</p>
Voting place	<p>The building or facility where advance voting is held or where voters of one or more voting areas are assigned to vote on General Voting Day.</p> <p>[<i>Election Act</i>, s. 1, 81]</p>
Value of election advertising	<p>The value of election advertising is:</p> <ul style="list-style-type: none">▪ the price paid for preparing and conducting the election advertising (including applicable taxes), or▪ the market value of preparing and conducting the election advertising (including applicable taxes), if no price is paid, or if the price paid is lower than the market value. <p>[<i>Election Act</i>, s. 228]</p>
Writ of election	<p>A formal order signed by the Chief Electoral Officer and the Lieutenant Governor that directs a District Electoral Officer to conduct an election. An election is called when the writ of election has been issued. In a general election, a writ is issued for every electoral district in the province.</p> <p>[<i>Election Act</i>, s. 1, 26]</p>



Questions?

For more information

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