



ELECTIONS BC

A non-partisan Office of the Legislature

**FINANCIAL AGENT GUIDE
FOR OPPONENT AND
PROPONENT GROUPS
2018 REFERENDUM ON
ELECTORAL REFORM**

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General

Elections BC is the non-partisan Office of the Legislature responsible for the administration of the provincial electoral process in B.C. and the campaign financing provisions for local government elections. Elections BC administers provincial general elections and by-elections, recall petitions, initiative petitions and initiative votes, the conduct of referenda and plebiscites, and local elections and assent voting campaign financing and advertising rules.

This guide is intended to assist opponent and proponent groups to understand the rules related to the use of public money and the financial reporting requirements for the 2018 Referendum on Electoral Reform.

This guide is only a summary of the rules and does not take precedence over the *Electoral Reform Referendum 2018 Act*, its regulation, the *Election Act* or any other legislation or regulations.

The *Electoral Reform Referendum 2018 Act*, its regulation and the *Election Act* are available on the Elections BC website (elections.bc.ca), or can be purchased from Crown Publications (crownpub.bc.ca).

Privacy

Elections BC has the authority to collect, use, disclose and dispose of personal information under the *Electoral Reform Referendum 2018 Act*, the *Election Act* and the *Freedom of Information and Protection of Privacy Act*. The information is used to administer provisions of the *Electoral Reform Referendum 2018 Act*.

For information about Elections BC's privacy policies, please visit elections.bc.ca/privacy or contact the Privacy Officer, Elections BC at 1-800-661-8683, privacy@elections.bc.ca or PO Box 9275 Stn Prov Govt, Victoria, BC V8W 9J6

Campaign Period

The campaign period for the 2018 Referendum on Electoral Reform is from July 1, 2018 to 4:30 p.m. on November 30, 2018.

Financial Agents

Opponent and proponent groups are required to appoint an eligible financial agent. The financial agent must:

- ensure all referendum contributions, income, referendum expenses, loans and other expenditures are recorded properly to allow compliance with reporting requirements
- ensure that all financial records are kept in British Columbia for at least five years from the date of filing any report in relation to them
- ensure all public money received is deposited in a separate bank account
- ensure all referendum contributions and other income are deposited in a separate bank account
- ensure that all expenditures of the group are paid from either the public money account or the contribution account

A financial agent may appoint one or more individuals to be deputy financial agents. Deputy financial agents are able to accept referendum contributions and other income and file reports on behalf of the financial agent. An Appointment of Deputy Financial Agent form (elections.bc.ca) must be completed and submitted to Elections BC.

If the financial agent changes for any reason, contact Elections BC immediately.

Auditors

The opponent/proponent groups must each appoint an auditor. The auditor must be authorized to be the auditor of a company under sections 205 and 206 of the *Business Corporations Act*. This means that the auditor is a Chartered Accountant (C.A.), Chartered Professional Accountant (C.P.A.), or has been certified by the Auditor Certification Board or is a qualified auditing firm.

The following cannot be appointed as an auditor:

- an individual who is a member of the same firm as the financial agent, or an auditing firm of which the financial agent is a member
- individuals who do not have full capacity to enter into contracts (e.g. a minor child)
- election officials, voter registration officials, or other employees of Elections BC
- individuals who have been convicted of an offence under the *Election Act* or the *Recall and Initiative Act* within the last seven years, or
- the financial agent

The appointment of an auditor must be made in writing and must:

- be on a form provided by Elections BC
- include the name, mailing address and telephone number of the auditor
- indicate the effective date of the appointment
- be signed, as applicable, by a principal officer of the appointing group, and
- include a signed consent of the auditor

As soon as possible after an appointment is made, a copy of the appointment form must be delivered to Elections BC.

The opponent/proponent group must give the auditor access at all reasonable times to the records of the group and must provide the auditor with any information the auditor considers necessary to enable the auditor to make a report.

Public Funding

Elections BC will pay \$500,000 to the appointed financial agents for the selected opponent and proponent groups after the start of the referendum campaign period. All public money must be deposited by the financial agent into an account held at a savings institution, separate from the account where income from other sources is deposited. The money must be maintained in this separate account until it is used for referendum purposes, or repaid to the Chief Electoral Officer.

The funds provided are to be used solely for the purposes of opposing or supporting proportional representation, including the proportional representation voting systems.

An opponent or proponent group must only use public money to:

- sponsor referendum advertising
- hold or sponsor referendum related events that any member of the public may attend without charge
- fund or recover administrative expenses in relation to referendum advertising or related events
- pay for an auditor's services

There are serious consequences for the misuse of public money. Opponent and proponent groups must not use public money:

- to incur a capital expense
- to sponsor provincial or local third party election advertising
- to make political, campaign or sponsorship contributions
- to sponsor referendum advertising in combination with referendum advertising sponsors
- in a manner that a reasonable person would consider is primarily for the benefit of a disqualified person or features the name, face, voice, slogan, logo or another thing that is associated with a disqualified person

If the financial agent has reason to believe public money was misused, the financial agent must report this to the Chief Electoral Officer within 15 days of becoming aware of the potential misuse.

If the Chief Electoral Officer has reason to believe that public money was, or was likely, misused by an opponent or proponent group or a member of such a group, the Chief Electoral Officer may request additional information from the financial agent, and require the financial agent to repay all or part of the amount that was misused.

Bank Accounts

The financial agent of an opponent/proponent group must open a separate account in a savings institution and deposit the entire \$500,000 of public money into that account. The account must be used exclusively for depositing the public money and for paying referendum expenses with the public money.

A second bank account must be opened to deposit and use referendum contributions and other income. The financial agent must ensure all monetary transactions not involving public money are processed through the account, including the deposit of all referendum contributions and the payment of referendum expenses with this money.

Referendum Contributions and Other Income

For the purposes of opposing or supporting the proportional representation voting systems on the referendum ballot, the financial agents of the opponent and proponent groups may receive referendum contributions and other income in addition to public funding, which may be used to pay for referendum expenses.

Referendum contributions

A referendum contribution to a proponent or opponent group is an amount of money or the market value of services or property provided without compensation by way of donation, advance, deposit, discount or otherwise in relation to a referendum.

If property or services are provided to the proponent or opponent group at less than market value, or if they are purchased from such a group at greater than market value, the difference between the price paid and fair market value is a referendum contribution.

The following are not referendum contributions:

- services provided by a volunteer
- property of a volunteer, if it is provided or used in relation to the services of the individual as a volunteer
- publishing without charge news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program
- broadcasting time provided, without charge, as part of a bona fide public affairs program
- producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the referendum

Fundraising functions

The purchase of a ticket to a fundraising function held by or on behalf of an opponent/ proponent group is a referendum contribution equal to the price of the ticket.

Fundraising functions also result in referendum contributions if:

- property or services are purchased at greater than market value, in which case the difference between the price paid and the market value is a referendum contribution
- property or services are donated for sale at a fundraising function but are not sold at the fundraising function, in which case the referendum contribution is equal to the market value of the donated property or services

Example of other income:

- Michelle pays \$200 to purchase a TV at a silent auction during a fundraising event. The market value of the TV is \$150. The amount paid above market value (\$50) is a referendum contribution from Michelle. The remaining \$150 that was paid is considered other income.

Organizations are not permitted to purchase tickets to fundraising functions held by or on behalf of proponent or opponent groups. Organizations must not reimburse or refund any person for tickets purchased.

Loans

Opponent and proponent groups may accept permissible loans from savings institutions. The savings institution must charge an interest rate that is at least the prime rate of the principal banker to the government. At the time of writing, the principal banker to the government is the Canadian Imperial Bank of Commerce (CIBC).

The opponent and proponent groups must not accept any other loans.

Debts

A debt owed by an opponent/proponent group, other than a permissible loan, becomes a referendum contribution if it is still unpaid six months after it was due and the creditor does not make commercially reasonable efforts to collect the debt.

Who can and cannot make a referendum contribution?

Referendum contributions may only be accepted from eligible individuals. An eligible individual is someone who is a resident of B.C. and either a Canadian citizen or permanent resident.

Referendum contributions may not be accepted from:

- unincorporated organizations, corporations, or partnerships,
- trade unions,
- not for profit or charitable organizations, or
- any other organizations.

Written consent and confirmation required

To use a referendum contribution to pay for a referendum expense, the proponent or opponent group must obtain written confirmation and consent from the contributor that:

- confirms the contributor is an eligible individual (resident of B.C. and a Canadian citizen or a permanent resident of Canada), and
- gives consent to use the contribution for referendum expenses.

Elections BC has developed a form, available at elections.bc.ca that may be used for this purpose.

The written consent and confirmations do not need to be filed with Elections BC but the opponent/proponent group must keep them with the other financing records.

Recording contributors' information

In addition to the written consent and confirmation of the contributor, financial agents must record the following for every referendum contribution accepted:

- the full name of the contributor
- the address of the contributor
- the date of the contribution
- the dollar amount or value of the contribution

Contribution limits and restrictions

- the referendum contribution limit is \$1,200 per eligible individual
- monetary referendum contributions greater than \$100 must be in the form of cheque, money order, electronic transfer from the contributor's account or by credit card in the name of the contributor
- Indirect referendum contributions are prohibited. This means that an individual or organization must not give money, other property, or services to an eligible individual to make as a contribution, or provide "consideration" for making a contribution. However, there is an exception for individuals only. An eligible individual can make a referendum contribution with the money of another eligible individual, but the individual whose money is being used is the contributor and their name and address must be given to the financial agent, and, if applicable, disclosed by the financial agent.
- a group must not use a contribution that is not a referendum contribution to pay for referendum expenses
- anonymous contributions must be \$25 or less
- the total limit of anonymous contributions is \$5,000

Referendum Expenses

A referendum expense of an opponent/proponent group is:

- the value of property or services used during the referendum campaign period to promote or oppose, directly or indirectly, proportional representation or voting systems on the referendum ballot
- a deficit incurred in holding a fundraising function during the referendum campaign period

The following are **not** referendum expenses:

- services provided by a volunteer who receives no compensation, directly or indirectly, for their services or the time spent providing those services
- property of a volunteer, if it is provided or used in relation to the services of the individual as a volunteer
- goods produced by a volunteer from their own property
- publishing without charge news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program
- broadcasting time provided, without charge, as part of a bona fide public affairs program
- producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the referendum

Valuing referendum expenses

The value of a referendum expense is the higher of the price paid for the property or services or their market value.

If property is a capital asset, the value of the property is the market value of using the property.

Free advertising space in periodical publication and free broadcasting time provided equitably to both the opponent and proponent groups has a nil value.

Expenses limits

The referendum expenses spending limit for opponent/proponent groups is \$700,000 - \$500,000 from the public funding and \$200,000 from referendum contributions and other income.

The following referendum expenses are not subject to referendum expenses limit:

- legal or accounting services provided to comply with the legislation
- expenses incurred in holding a fundraising function unless the function incurs a net loss, in which case the amount of the loss (deficit) is a referendum expense subject to the limit
- interest on a loan obtained for referendum expenses
- cost of a communication sent exclusively to the opponent/proponent group's members

Referendum Advertising

Referendum advertising is a special type of referendum expense and there are some special rules about referendum advertising.

What is referendum advertising?

For the opponent/proponent groups, referendum advertising is:

The transmission to the public by any means, during the referendum campaign period (July 1, 2018 to November 30, 2018), of an advertising message that promotes or opposes, directly or indirectly, a specific response to a referendum.

What is not referendum advertising?

- messages on the internet that do not and would not normally have a placement cost (examples include: free Facebook, Instagram, Snapchat posts, tweets, YouTube videos, and websites)
- the transmission of a document directly by a person or a group to their members, employees or shareholders
- the transmission by an individual, on a non-commercial basis on the internet, or by telephone or text messaging, of his or her personal views about the referendum
- the publication without charge of news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary in a bona fide periodical publication or a radio or television program
- the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be a referendum

No referendum advertising with referendum advertising sponsors

Individuals and organizations, other than the opponent/proponent groups, that wish to sponsor referendum advertising must first register with Elections BC. Referendum advertising sponsors are sometimes called third party sponsors or third parties.

Referendum advertising sponsors must be independent of the opponent/proponent groups and their financial agents.

Opponent/proponent groups must not sponsor referendum advertising on behalf of or together with any referendum advertising sponsors or provide them with contributions for the referendum.

Authorization statement requirement

Most referendum advertising must contain an authorization statement that identifies the opponent/proponent group's financial agent and provides a B.C. telephone number or mailing address where the financial agent can be contacted about the advertising.

For example:

Authorized by Jerrold Feinhold, financial agent for ABC Proponent Group, 250-123-4567

Elections BC recognizes that it may not be practicable to include the authorization statement on certain Internet advertising. In those cases, a link that easily sends the viewer to another page that contains the authorization statement will suffice.

The authorization statement is not required for referendum advertising on the following items:

- clothing (e.g. shirts, sweaters, vests, jackets, hats, etc.)
- novelty items, including wearable novelty items (e.g. buttons, badges, pins, brooches, stickers, wristbands, necklaces, etc.)
- small items of nominal value that are intended for personal use (e.g. pens, mugs, magnets, key-chains, notepads, etc.)

Canvassing – identification of opponent/proponent group

If a proponent or opponent group pays for canvassing of voters, in person or by telephone, the canvassers must tell the voter the name of the opponent/proponent group and that the canvassing was authorized by the financial agent of that group.

Prohibited referendum advertising

Referendum advertising must not:

- directly promote or oppose a registered political party or the election of a candidate in an election under the *Election Act*
- directly promote or oppose an elector organization or the election of a candidate in an election to which the *Local Election Campaign Financing Act* applies
- be combined with advertising described in the previous two bullets

Referendum advertising in rental or strata properties

Referendum signs must be allowed to be placed within the premises to which a renter's tenancy agreement relates, and must be allowed on the premises of a strata unit. However, landlords, strata corporations and their agents may set reasonable limits on the sizes and types of referendum signs that are permitted, and may restrict placement in common areas.

Restriction on campaigning near referendum offices

During the campaign period, the 100 metres surrounding the building where a Service BC Centre or an Elections BC Referendum Service Office is located is a restricted area where individuals and organizations must not post, display or disseminate any referendum advertising.

Authority to remove unauthorized and restricted referendum advertising

If a referendum advertising message does not have the required authorization statement, Elections BC may require the advertising to be discontinued, or removed and destroyed. Elections BC can remove and destroy unauthorized referendum advertising without notice.

Similarly, if referendum advertising is located within 100 metres of a building that contains a Service BC Centre or an Elections BC Referendum Service Office, the Chief Electoral Officer (CEO), or someone authorized by the CEO, may enter the property and remove or cover/obscure the referendum advertising or material.

Reporting by Groups

There are three types of financing reports to be filed by opponent and proponent groups:

1. initial disclosure report
2. subsequent disclosure reports
3. referendum financing report

Initial disclosure report

Once an opponent/proponent group sponsors more than \$10,000 worth of referendum advertising, an initial disclosure report must be filed with Elections BC within 14 days.

The report must disclose the following for every contributor who made one or more referendum contributions that in total have a value of more than \$250:

- the full name of the contributor
- the value of each contribution made by the contributor
- the date of each contribution

Subsequent disclosure reports

After the initial disclosure report, subsequent disclosure reports must be filed within 14 days of an opponent/proponent group receiving a referendum contribution from a contributor who makes one or more contributions with a total value of more than \$250 since the date of the initial report.

Multiple subsequent disclosure reports may be required if more contributions totalling more than \$250 are received. Subsequent disclosure reports must be filed until November 30, 2018.

Subsequent disclosure reports must disclose the following for every contributor who made one or more referendum contributions since the initial report that in total have a value of more than \$250:

- the full name of the contributor
- the value of each contribution made by the contributor
- the date of each contribution

Examples:

1. Jimmy contributes \$300 after the initial disclosure report was filed. A subsequent disclosure report is now required within 14 days of Jimmy making this contribution. Jimmy had also contributed \$100 prior to the initial disclosure report, but the subsequent disclosure report will still only report the \$300, since it is the amount given since the initial disclosure report.
2. If Jimmy contributes another \$200 after the first subsequent disclosure report, a second subsequent disclosure report is required. This second subsequent disclosure report will show both Jimmy's \$300 and \$200 referendum contributions. The total of all Jimmy's contributions (\$600) will eventually be reported in the referendum financing disclosure report, which is separate from the initial and subsequent disclosure reports, and will be submitted after the campaign period.
3. Below is a timeframe chart that illustrates Jimmy's referendum contributions along with another contributor's. The hypothetical dates listed are either the date the contributions were made or the date the financial agent filed the corresponding report, as applicable.

Action	Date	Jimmy (contributor)	Mika (contributor)
Contributions received	July 1	\$100	\$500
\$10,000 threshold met	July 20		
Initial disclosure report	August 3	shows \$0 from Jimmy	shows \$500 from Mika
Contributions received	August 6	\$300	\$100
Contributions received	August 11		\$100
1 st Subsequent disclosure report	August 18	shows \$300 from Jimmy	shows \$0 from Mika
Contributions received	November 11	\$200	\$200
2 nd Subsequent disclosure report	November 23	shows \$500 from Jimmy	shows \$400 from Mika
Referendum financing report	December 14	shows \$600 from Jimmy	shows \$900 from Mika

Referendum financing report

An audited referendum financing report must be filed with Elections BC by 4:30 p.m. on February 28, 2019. It is important that financial agents ensure enough time is provided for the audit to be completed prior to the filing deadline.

The referendum financing report must be filed on forms provided by Elections BC and must include the following information:

- referendum contributions
- other income
- the amount of the group's assets, other than those received as contributions, used to pay for referendum expenses
- the value of referendum advertising by class
- referendum expenses incurred and paid for with public money
- referendum expenses incurred and paid for with referendum contributions and other income
- details of fundraising functions held in relation to the referendum, including a description, date, cost, gross income, and net income or loss
- details of loans or guarantees received in relation to the referendum
- any referendum contributions that were returned or prohibited
- the amount of public money not used that must be repaid
- any other information required by the Chief Electoral Officer to be included

A supplementary report, or amendment, must be filed with Elections BC within 30 days after the financial agent becomes aware that information disclosed in the report has changed, or that the report did not completely and accurately disclose the information required.

Offences and Penalties

There are significant penalties for failing to comply with the financing rules or for committing offences in relation to referendum financing.

Penalties include monetary penalties for misusing public money, sponsoring referendum advertising with a referendum advertising sponsor (third party), exceeding the referendum expenses limit, not complying with the referendum contribution provisions or sponsoring prohibited referendum advertising.

The Electoral Reform Referendum 2018 Regulation also establishes offences and an individual or organization that commits an offence is liable to a fine of not more than \$10,000 or imprisonment for a term not longer than one year, or both.

Questions?

For more information

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