

# Bill 52 - Recall Legislation

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## Recommendation

That the April 6, 2021, Office of the City Manager Report OCC00507, be received for information.

## Executive Summary

This report provides an overview of the Recall Act (Bill 52) introduced by the Government of Alberta in March 2021 and is the same information that was provided to Council via memo on March 18, 2021.

## Report

### Municipal Elected Officials

The Bill outlines the process for an individual to commence a recall petition for the purpose of removing a sitting municipal elected official. The process as presented includes submitting a notice to the municipality from an eligible individual who assumes all responsibilities for leading the recall petition and pays the \$500 application fee. An elected official may not submit a notice of recall on another elected official in the same municipality.

#### When can a recall petition be submitted

A notice to commence a recall petition can not be submitted within 18-months following the day on which the municipal official was elected or after January 1 of the year of a general election. For example, a recall notice could be submitted between April 2023 and December 2024 if this Bill comes into force in 2021/2022.

#### Who can sign a recall petition

Only an elector who is eligible to vote in the ward may sign a recall petition if the recall petition is for a Councillor or must live in the City of Edmonton if the petition is for the Mayor. The elector does not need to have lived in the ward at the time of the previous election.

#### The signatures

A recall petition must be signed by at least 40 percent of the population of the ward if the recall is of a Councillor and 40 percent of the total municipal population if the recall

is for the Mayor. Further clarification will be required on what population figures will be used to determine the 40 percent threshold. Again, only eligible voters are able to sign the petition. The petition must be in paper form and satisfy all the petition requirements including a witness for each signature. Electronic signatures and electronic petitions are not permitted by the legislation.

### The process

Should the completed recall petition be filed with the City Clerk within the recall petition period of 60 days from the submission of the notice, a validation process will be undertaken and must be completed within 45 days. The legislation permits a random statistical sampling method with a 95 percent confidence level to determine the sufficiency of the petition, instead of counting and checking each petitioner. Once the validation process is complete the petition will either be deemed sufficient or insufficient and then a declaration will be made to City Council in public at its next Council meeting.

If the declaration is that the petition is insufficient the elected official remains in office.

If the declaration is that the petition is sufficient the elected official is recalled, is no longer a member of Council or any committee and the position is deemed vacant. Depending on the date the vacancy occurs, a by-election may be required. The recalled elected official may run for office again during the by-election and any future general elections.

### **School Board Trustees:**

City Council has approved agreements with both the Edmonton School District and Edmonton Catholic Separate School District regarding the City of Edmonton conducting general elections and by-elections on their behalf. The City Clerk has been in touch with both School Districts regarding the legislation, as this will impact their trustees.

The school board trustee process would be similar to that of municipalities. However, a recall application would initially be submitted to the secretary of the school board. The petitioner would then have a period of 120 days to gather signatures from eligible voters that represent at least 40 percent of the population in the ward. If a census has not been conducted since the last general election, a census must be conducted to determine the number of eligible electors upon receipt of the recall application in order to determine the total number of eligible voters for the purpose of validating whether the 40 percent threshold is reached. This nuance was not included in the municipal recall section of the Bill.

**Provincial:** To initiate the process, an Albertan (must be a constituent of the MLA, who has lived in the constituency for 3 months prior) would apply to the Chief Electoral Officer of Elections Alberta, including a statement about why they believe the MLA

should be recalled, along with an application fee that will be set by Regulation. The applicant would then have 60 days to gather signatures from 40 percent of eligible voters in that constituency. For clarity, this is 40 percent of electors (distinct from municipal process which uses population). To sign the petition, an individual must have lived in the constituency for at least three months.

If the recall petition meets the criteria, a vote would be held to determine if the MLA should be recalled. If the recall vote is successful, by a simple majority (over 50 percent), the MLA would be removed from office and a by-election would be called. This additional step is not required for municipalities, with the province acknowledging that capacity to do so at the local level would be a challenge.

### **Current Status:**

Bill 52 was introduced for First Reading on March 15, 2021, and will now undergo the legislative process. It is intended to fulfill the UCP election platform commitment to introduce recall legislation (additional legislation on citizen initiatives and referenda has also been introduced). While modeled on the recall process in British Columbia, Bill 52 is unique in Canada in extending its application to municipal and school board officials.

### **Next Steps:**

Regulations will need to be drafted before the legislation can come into force. If passed, Bill 52, *Recall Act* will come into force upon proclamation. The government has not yet committed to any timelines for proclamation.

### **Others Reviewing this Report**

- K. Fallis-Howell, Acting City Solicitor