

# **Bill M 222**

**Members' Bill**

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Legislative Assembly of British Columbia

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## **BILL M 222**

### **CONTROL OF FOREIGN FUNDING AND ELECTORAL INFLUENCE ACT**

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Mr. Andrew Wilkinson

### **Explanatory Note**

This Bill prohibits funding of contributions by foreign persons and foreign principals and prohibits foreign influence and false, misleading or deceptive communications or practices that are directed, funded or supervised by a foreign principal. This Bill provides for the role of the chief electoral officer and, in respect of contraventions of the Act, for monetary penalties, offences and injunctions.

# CONTROL OF FOREIGN FUNDING AND ELECTORAL INFLUENCE ACT

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

## **Definitions**

**1** In this Act:

“**candidate**” includes

- (a) a candidate under the *Election Act*,
- (b) a candidate under the *Local Government Act*, and
- (c) a candidate under the *Local Elections Campaign Financing Act*;

“**chief electoral officer**” has the same meaning as in the *Election Act*;

“**contribution**” means an amount of money or the value of any property or services provided without compensation by way of donation, advance, deposit, discount or otherwise provided to a person;

“**election**” includes

- (a) an election under the *Election Act*,
- (b) an election under the *Local Government Act*, and
- (c) an election to which the *Local Elections Campaign Financing Act* applies;

“**foreign country**” means a country other than Canada;

“**foreign government**” means

- (a) the government of a foreign country or of part of a foreign country,
- (b) an authority of the government of a foreign country or of part of a foreign country, or
- (c) a local or regional government body of a foreign country;

**“foreign government related entity”** means an entity that is

- (a) related to a foreign government or foreign political organization, and
- (b) subject to total or substantial control exercised directly or indirectly over the entity by the foreign government or foreign political organization;

**“foreign government related person”** means a foreign person who is related to a foreign government, foreign government related entity or foreign political organization because

- (a) the foreign person ordinarily acts, or is under a formal or informal obligation to act in accordance with the directions, instructions or wishes of the foreign government, foreign government related entity or foreign political organization, or
- (b) the foreign government, foreign government related entity or foreign political organization is in a position to exercise total or substantial control over the foreign person;

**“foreign person”** means

- (a) a person incorporated, continued, or otherwise organized under the laws of a foreign country, or
- (b) in the case of an individual, an individual other than a Canadian citizen or a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada);

**“foreign political organization”** means

- (a) a foreign political party,
- (b) a foreign organization that exists primarily to pursue political objectives, or
- (c) a foreign entity that seeks to influence the outcome of an election;

**“foreign principal”** means

- (a) a foreign government,
- (b) a foreign government related entity,
- (c) a foreign government related person, or
- (d) a foreign political organization;

**“registered political party”** has the same meaning as in the *Election Act*;

**“voter”** includes

- (a) a voter under the *Election Act*, and
- (b) a voter under the *Local Government Act*.

## **Foreign funding**

- 2 Despite anything to the contrary in the *Election Act* or the *Local Elections Campaign Financing Act*, an individual or organization must not, at any time, accept a contribution from a foreign person or a foreign principal, directly or indirectly, for any purpose related to an election, including a contribution to a candidate, registered political party, or any related third-party electoral activity as defined in the *Election Act*, regardless of whether or not the writ for the election has been issued.

### **Foreign influence**

- 3** An individual or organization must not engage in conduct on behalf of, or in collaboration with, a foreign principal or a foreign person if the conduct is directed, funded or supervised, in whole or in part, by a foreign principal, and the intent of the conduct is
- (a) to influence, or attempt to influence, an election in British Columbia, or
  - (b) to influence, or attempt to influence, a voter in British Columbia in respect of an election.

### **False, misleading or deceptive communications or practices**

- 4** A person or organization must not make or issue false, misleading or deceptive communications or practices for any purpose related to an election if directed, funded or supervised by a foreign principal or a foreign person.

### **Monetary penalties**

- 5**
- (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 2, 3 or 4 by an individual or organization, the chief electoral officer must notify the individual or organization of the non-compliance and the related penalty.
  - (2) Unless relief is granted by a court on an application under section 6, if the chief electoral officer gives notice under subsection (1) of this section, the individual or organization must:
    - (a) pay to the chief electoral officer a penalty in the amount of up to \$200 000; and
    - (b) forfeit any contributed funds to Elections BC.

### **Court order for relief**

- 6**
- (1) An individual or organization who is subject to a monetary penalty under section 5 may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance with the applicable section.
  - (2) An application may be made only within 30 days after the chief electoral officer, under the applicable section, notifies the individual or organization of the non-compliance and related penalty.
  - (3) The petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed and the chief electoral officer is a party to the application.
  - (4) On the hearing of an application, the court may do the following:
    - (a) make any order the court considers appropriate to secure compliance with the applicable section to the extent the court considers reasonable in the circumstances;
    - (b) refuse to grant relief.

### **Prosecution of offences**

- 7** (1) A prosecution for an offence under this Act may not be commenced without the approval of the chief electoral officer.

- (2) If the chief electoral officer is satisfied that there are reasonable grounds to believe that an individual or organization has contravened this Act, the chief electoral officer may refer the matter to the Criminal Justice Branch of the Ministry of Attorney General for a determination of whether to approve prosecution.
- (3) The time limit for laying an information respecting an offence under this Act is one year after the facts on which the information is based first came to the knowledge of the chief electoral officer.
- (4) A document purporting to have been issued by the chief electoral officer, certifying the day on which the chief electoral officer became aware of the facts on which an information is based, is admissible without proof of the signature or official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified.

#### **Prosecution of organizations and their directors and agents**

- 8** (1) An act or thing done or omitted by an officer, director, employee or agent of an organization within the scope of the individual's authority to act on behalf of the organization is deemed to be an act or thing done or omitted by the organization.
- (2) If an organization commits an offence under this Act, an officer, director, employee or agent of the organization who authorizes, permits or acquiesces in the offence commits the same offence, whether or not the organization is convicted of the offence.
- (3) A prosecution for an offence under this Act may be brought against an unincorporated organization in the name of the organization and, for the purposes of the prosecution, the unincorporated organization is deemed to be a person.

#### **Prosecution of organizations and their directors and agents**

- 9** (1) The justice or court may, at any stage of a prosecution for an offence under this Act, order security for costs or security for costs of prosecution to be given by any person.
- (2) In a prosecution for an offence under this Act, the justice or court may impose all or part of the penalties applicable in relation to the offence, together with the costs of prosecution.

#### **Defence of due diligence**

- 10** Other than forfeiture of funds under section 5 (2) (b), an individual or organization is not guilty of an offence under this Act if the individual or organization exercised due diligence to prevent the commission of the offence.

#### **Enforcement of penalties**

- 11** (1) In relation to a penalty under section 9, the chief electoral officer may issue and file with the Supreme Court a certificate specifying the name of the individual or organization, as applicable, and the amount owed under that section by the individual or organization.

- (2) A certificate filed under subsection (1) has the same effect and is enforceable in the same manner as a judgment of the Supreme Court in favour of the government for the recovery of a debt in the amount specified in the certificate.

**Enforcement of Act by court injunction**

- 12** (1) On application of the chief electoral officer, the Supreme Court may grant an injunction as follows:
  - (a) the court may grant an injunction restraining an individual or organization from contravening this Act if the court is satisfied that there are reasonable grounds to believe that the individual or organization has contravened or is likely to contravene this Act;
  - (b) the court may grant an injunction requiring an individual or organization to comply with this Act if the court is satisfied that there are reasonable grounds to believe that the individual or organization has not complied or is likely not to comply with this Act.
- (2) An order under subsection (1) may be made without notice to others if it is necessary to do so in order to protect the public interest.
- (3) A contravention of this Act may be restrained under subsection (1) whether or not a penalty or other remedy has been provided by this Act.

**Commencement**

- 13** This Act comes into force by Royal Assent.