
Election Commissioner

Position Profile



**LEGISLATIVE ASSEMBLY
OF ALBERTA**

December 2017

ELECTION COMMISSIONER

Bill 32, *An Act to Strengthen and Protect Democracy in Alberta*, received Royal Assent on December 15, 2017. When its provisions come into force, the Office of the Election Commissioner will be established and the Election Commissioner on their appointment will perform the duties described in this Position Profile.

A. **POSITION SUMMARY**

Alberta's Election Commissioner will be a nonpartisan officer of the Legislature appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

As Alberta's first Election Commissioner, you will be responsible for ensuring compliance with, and enforcement of, certain obligations of entities regulated by the *Election Act* and *Election Finances and Contributions Disclosure Act*. In this capacity, the Election Commissioner will be responsible for fully investigating complaints, levying administrative penalties, issuing letters of reprimand, entering into compliance agreements, and recommending prosecutions.

As this position requires you to investigate potential wrongdoings by political entities including candidates, political parties and third parties, you will be required to have a knowledge of investigative methodologies and approaches.

Drawing upon your strategic leadership skills and executive management experience you will be responsible for establishing, overseeing and building a strong team of professionals for a new independent office of the Legislature.

B. **RELATIONSHIP TO THE LEGISLATIVE ASSEMBLY**

The Office of the Election Commissioner is an independent officer of the Legislature appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

The Election Commissioner reports to the Legislative Assembly through the Standing Committee on Legislative Offices with respect to annual reports of the office, proposed budgets, the salary of the Election Commissioner and matters relating to the jurisdiction or authority of the Election Commissioner under the respective Acts.

The Standing Committee on Legislative Offices is responsible for reviewing the budget and operations of the Offices of the Ethics Commissioner, Information and Privacy Commissioner, Ombudsman and Public Interest Commissioner, Auditor General, Child and Youth Advocate, Chief Electoral Officer, and Election Commissioner. The Standing Committee comprises Members appointed from the Government caucus and the Official Opposition. The Election Commissioner meets with the Standing Committee during the year as necessary.

C. **MAJOR RESPONSIBILITIES**

Pursuant to the *Election Act (EA)* and the *Election Finances and Contribution Disclosure Act (EFCDA)* the Election Commissioner is responsible for:

i. **Investigations**

The Election Commissioner may on the Commissioner's own initiative or at the request of the Chief Electoral Officer or another person or organization, conduct an investigation into any matter that might constitute an offence under the EA or the EFCDA.

The Election Commissioner may also conduct periodic investigations of the financial affairs and records of

- Registered parties and registered constituency associations,
- Registered candidates in relation to election campaigns,
- Registered leadership contestants in relation to leadership contests,
- Registered nomination contestants in relation to nomination contests, and
- Registered third parties in relation to election advertising or political advertising

For the purposes of an investigation, the Election Commissioner has all the powers of a Commissioner under the *Public Inquiries Act*. The Election Commissioner or their representative has the power to enter the premises in which books or documents of a political party, constituency association, candidate, third party advertiser or leadership or nomination contestant relevant to the subject matter of the investigation are kept and may examine or make copies of books or documents or remove them temporarily for the purpose of making copies.

The Election Commissioner may request any information relevant to a particular investigation from any political party, constituency association, candidate, third party advertiser or leadership or nomination contestant.

The Election Commissioner is required to maintain the confidentiality of all information, complaints and allegations that come to their knowledge, except in certain circumstances. One of these circumstances is where the Election Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Solicitor General or a law enforcement agency of an alleged offence under the EA or EFCDA or any other enactment of Alberta or an Act or regulation of Canada.

ii. **Legal and Enforcement**

Levying administrative penalties and issuing letters of reprimand

The Election Commissioner may levy administrative penalties and issue letters of reprimand

under the EA and the EFCDA. The Commissioner must consider a number of factors in determining the amount of the administrative penalty or whether a letter of reprimand is to be issued, including the severity of the contravention, mitigating factors, and the degree of willfulness or negligence involved in the contravention.

Providing consent to prosecutions under EA and EFCDA

The Election Commissioner must provide consent prior to a prosecution being instituted under the EA or EFCDA.

Applying for injunctions during election periods

If the Election Commissioner has reasonable grounds to believe that a person has committed or is likely to commit an act or omission that is contrary to the EA or the EFCDA, the Commissioner may, during an election period, after taking into account the nature and seriousness of the act or omission, the need to ensure fairness of the electoral process and the public interest, apply to the Court for an injunction.

Entering into compliance agreements

The Election Commissioner may enter into compliance agreements with any person that the Commissioner believes on reasonable grounds has committed, is about to commit, or is likely to commit an act or omission that could constitute a contravention of the EA (except Part 6) or the EFCDA. When a compliance agreement is entered into, a prosecution of the contracting party cannot be instituted. If a person fails to comply with the agreement, or did not disclose all material facts when the agreement was entered into, the Commissioner may serve a notice of an administrative penalty or a letter of reprimand, or may consent to a prosecution.

Receiving complaints regarding government advertising

The EA contains restrictions on government advertising during election periods and by-election periods. The Election Commissioner is charged with receiving complaints from any person who believes a department or Provincial corporation has contravened these restrictions. If the Commissioner finds that a department or Provincial corporation has contravened that section, the Commissioner may do one or both of the following:

- Cause the advertisement or publication to be removed or discontinued;
- Publish the particulars of the violation.

iii. Leadership, Management and Reporting

Overseeing Office of the Election Commissioner

The Office of the Election Commissioner is created as a department consisting of the officers and employees appointed pursuant to the *Public Service Act*. The Election Commissioner will have a supervisory role in overseeing investigators and other staff who assist in carrying out the duties and functions of the Election Commissioner.

Preparation of budget

The Election Commissioner is responsible for preparing a budget for the office for each upcoming fiscal year for presentation to the Standing Committee on Legislative Offices.

Preparation of Reports

The Election Commissioner must prepare a report each year on the exercise of the Commissioner's functions under the EA and the EFCDA and submit it to the Standing Committee on Legislative Offices. The Election Commissioner may also prepare a special report on any matter within the scope of the Commissioner's responsibilities under the EA or the EFCDA and publish that report on the Commissioner's website.

D. FINANCIAL AND HUMAN RESOURCE MANAGEMENT

The Election Commissioner will oversee the establishment of a new independent office of the Legislature. As such, the Commissioner will be expected to provide leadership, guidance and training to new staff and contractors supporting the office.

The Election Commissioner will also be expected to work in cooperation with the Chief Electoral Officer and staff.

A proposed budget for the office is presently under development by the Standing Committee on Legislative Offices.

E. CONTACTS/PROFESSIONAL ASSOCIATIONS

The Election Commissioner will develop and maintain liaisons with electoral officials and related government representatives in provincial and federal jurisdictions.

F. TERMS AND CONDITIONS

The Lieutenant Governor in Council appoints the Election Commissioner on the recommendation of the Assembly for a term not exceeding five (5) years with the possibility of reappointment. The Standing Committee on Legislative Offices reports on the search for the Election Commissioner to the Legislative Assembly and recommends the appointment of the Election Commissioner.

The position of Election Commissioner is classified within salary range C of the Senior Officials Salary Schedule for the public service of Alberta. This appointment offers a salary range of \$152,818 to \$212,801 per annum, dependent on qualifications, as well as a comprehensive benefits package.

G. THE PERSON

The demands of this position require attributes that go beyond a specific discipline or academic achievement. In addition to the knowledge, experience and skill requirements of the role, applicants will have the proven ability to apply a balanced, common-sense approach while using sound judgment and demonstrating fairness, patience, and integrity. Credibility in a chosen career, respect within the community, public service orientation and an understanding of the political context of this role are key. As this position reports to the Legislative Assembly as a whole, the individual must be nonpartisan and able to work independently.

A. Knowledge/Experience Requirements

- Significant executive management and leadership experience
- Experience in decision-making at a senior level related to sensitive and complex issues
- Proven expertise in the interpretation and application of legislation, regulations and policies
- Strong knowledge of investigative methodologies and approaches
- Proven success in leading, managing and developing a professional workforce
- Extensive and varied experience working with people from different sectors and diverse backgrounds
- Working knowledge of business management practices
- Demonstrated understanding of financial management practices and procedures including financial statements, budgets, and audit techniques
- Familiarity or experience with the electoral process and the legal system would be assets

B. Skills and Abilities

- Strong critical and strategic thinking skills
- Strong verbal, written and interpersonal communication skills
- Strong investigative, problem-solving and consultative abilities
- A demonstrated and common-sense approach to decision-making
- Ability to build and maintain effective working relationships
- Demonstrated ability to act with impartiality and perform duties in the absence of political bias

C. Education

- A degree in a related discipline