

Local Authorities Election Act

Discussion Guide

Alberta Municipal Affairs

LAEA Discussion Guide

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INTRODUCTION

The *Local Authorities Election Act* (the Act) establishes the framework for local elections in Alberta. Municipalities and school boards rely on this important piece of legislation to conduct their elections. Although Metis settlements are not included within the definition of an elected authority in the Act, councillors must be elected to a settlement council in accordance with this legislation.

In 2009, changes to improve accountability and transparency were added to the Act through a private member's bill. These amendments added Part 5.1 (Municipal Election Finance and Contribution Disclosure) to the Act. Subsequent amendments to the Act were made in 2012 that extended the term of council from three to four years, added minimum requirements for voter identification, and required candidates to register with the municipality prior to accepting campaign contributions.

Since the 2013 elections, citizens, candidates, municipalities and municipal associations have continued to ask for a number of changes to improve fairness in campaign practices and to clarify and improve consistency and clarity in the legislation.

Alberta Municipal Affairs is conducting a limited-scope review of the Act in advance of the next general elections which will occur in October 2017. It is anticipated that an amending bill will be introduced in the Legislative Assembly in fall 2016. We would like to ensure that any changes to the Act are completed this fall so that municipalities, schools, and Metis settlements may have sufficient time to plan for their elections. To help us make the most effective use of time, we have asked associations that represent key stakeholders to provide feedback on behalf of their members.

Key stakeholders have been identified to include:

1. Candidates running for office in local authorities;
2. Returning officers and administrators who conduct local authority elections; and
3. Electors who vote in local authority elections.

As an association representing a key stakeholder in local authority elections, this is your opportunity to provide feedback about specific parts of the legislation and policy options.

What Is Being Reviewed?

This limited-scope review will look at the campaign finance provisions, voter and candidate accessibility, and a number of procedural and technical amendments.

Further Information

Each discussion area is briefly described in this guide, however, you may wish to read or reference the following additional materials:

- *Local Authorities Election Act*
- *Local Authorities Election Forms Regulation*
- *Modified Voting Procedure Regulation*

- Frequently Asked Questions about Municipal Elections

For convenience, we have included an appendix that contains the specific sections of the Act and regulations that are referenced by each discussion topic.

CAMPAIGN FINANCE

The campaign finance provisions set out in Part 5.1 of the Act only apply to municipalities and set out contribution limits; candidate registration, self-funded election campaigns, campaign disclosure statements, and campaign surplus management requirements; other duties of candidates; and offences and penalties for non-compliance.

In this discussion guide, campaign finance refers to all funds collected or spent during an election campaign.

Campaign Finance Provisions For School Boards

Currently, campaign finance provisions in the Act apply to municipalities but not to school boards. School boards have the authority to set their own finance disclosure requirements for school board trustee election campaigns through local their local bylaws, but do not have authorization to impose additional restrictions such as campaign contribution limits.

PROPOSED POLICY SHIFT: Apply all campaign finance provisions within Part 5.1 of the Act to school board trustee elections.

DISCUSSION QUESTIONS

- 1.1 Should prospective school board trustee candidates be subject to the campaign finance and contribution disclosure requirements? Yes No
- 1.2 Do you have any comments regarding the proposal or alternate suggestions?

Corporate, Trade Union And Employee Organization Contributions

The Act currently allows corporations, trade unions, employee organizations, and any other persons resident in Alberta to contribute to municipal election campaigns. The province recently enacted restrictions to prohibit contributions corporations, trade unions, and employee organizations to candidates in provincial elections.

PROPOSED POLICY SHIFT: Prohibit contributions from corporations, trade unions and employee organizations to candidates in local elections, and therefore allow only individuals resident in Alberta to donate to candidates.

DISCUSSION QUESTIONS

- 2.1 Do you agree with the approach to allow only individuals resident in Alberta donate to municipal and school board election campaigns? Yes No
- 2.2 Do you have any comments regarding the proposal or alternate suggestions?

Fundraising Contributions

The Act does not specify how the proceeds from fundraising activities, such as dinners or silent auctions, are to be treated. This has been identified as a concern as it is unclear who is contributing to a candidate by way of fundraising events. Further, corporations, trade unions, and employee organizations may channel funds to election campaigns through these activities to circumvent a potential ban on direct contributions.

Legislation for Alberta provincial elections deems the donation portion of fundraising proceeds to be a campaign contribution, which is therefore subject to contribution limits and reporting requirements.

PROPOSED POLICY SHIFT: Align treatment of fundraising activities with the rules used for provincial elections by deeming the donation portion of fundraising proceeds to be a campaign contribution.

DISCUSSION QUESTIONS

- 3.1 Do you agree with the proposal to deem a portion of fundraising proceeds as contributions?
Yes No

3.2 Do you have any comments regarding the proposal or alternate suggestions?

Contribution Limits

Campaign contributions are vital to election campaigns, as they provide candidates with the means to inform the public of their intentions in running for office. However, limits are often recommended to support a level playing field among candidates and to reduce the potential influence contributors may have on the candidate.

In Alberta, the typical campaign period for a municipal election commences shortly after each general election and continues for a four year period ending on the calendar year-end following the next general election.

The Act currently limits the amount an individual can contribute per year to \$5,000 to each candidate. If contributions were made to a candidate in each year, this could equate to \$20,000 per campaign period.

Since the current limit applies on a per-candidate basis, a contributor could annually donate \$5,000 each to numerous candidates in the same election, or to candidates running in other local authority elections.

PROPOSED POLICY SHIFT: An annual limit of \$5,000 will apply as an overall limit that an individual can contribute to one or more candidates in any municipal election in Alberta.

DISCUSSION QUESTIONS

- 4.1 Do you agree with the proposal that individuals should be given a maximum limit of what they can contribute to all candidates rather than just one? Yes No

- 4.2 Do you have any comments regarding the proposal or alternate suggestions?

Campaign Contributions Made By Candidates

Candidates who use their own funds to finance their campaign are currently limited to contributions of \$10,000 per campaign period, and the contribution does not need to be disclosed.

PROPOSED POLICY SHIFT: The limit on personal contributions by candidates to their own election campaign will be reduced to \$5,000 per election campaign period, and the contribution and use of the funds will need to be disclosed.

DISCUSSION QUESTIONS

- 5.1 Do you agree with the proposed reduction of the limit on personal contributions to a candidate's own election campaign? Yes No
- 5.2 Do you agree with the proposed requirement for financial disclosure where the candidate has paid for campaign costs out of their own funds? Yes No
- 5.3 Do you have any comments regarding the proposals or alternate suggestions?

Candidate Registration

The candidate registration requirements set out in the Act came into force January 1, 2014. Candidate registration is required to ensure campaign finance rules apply consistently, and to ensure

accountability from individuals who collect contributions and incur expenses for the purposes of an election campaign.

The Act currently stipulates that a candidate must register prior to accepting campaign contributions. However, there is no registration requirement for individuals who intend to finance their campaign entirely from their own funds. With the proposed change to require financial disclosures for self-funded campaigns, registration of all candidates would ensure broad accountability for submitting financial disclosures after each election.

PROPOSED POLICY SHIFT: Require all prospective candidates to register with the municipality before or at the time of filing nomination papers, regardless of whether they are self-funding or receiving contributions from others.

DISCUSSION QUESTIONS

- 6.1 Do you agree with the proposal that would require all prospective candidates to register?
 Yes No
- 6.2 Do you have any comments regarding the proposal or alternate suggestions?

Campaign Finance Disclosure

Candidates who accept campaign contributions are required to file campaign disclosure statements in a form that is prescribed within the *Local Authorities Election Forms Regulation*. Although candidates are required to disclose the total amount of campaign expenses, they are not required to itemize expenses or report them by category.

School boards may set campaign disclosure requirements for school board trustee candidates by bylaw.

PROPOSED POLICY SHIFT: Require campaign expenses to be reported by category.

DISCUSSION QUESTIONS

- 7.1 Do you agree with the proposal to require campaign expenses to be reported by category?
 Yes No

7.2 Do you have any comments regarding the proposal or alternate suggestions?

Tax Incentives

The Act does not provide tax incentives for individual contributions to municipal election campaigns.

PROPOSED POLICY SHIFT: Provide a provincially funded income tax credit for Albertans who financially support municipal candidates using rates equivalent to the existing provincial tax credit for contributions to provincial election campaigns, but with the thresholds and the maximum annual credit amount at one half of the provincial credit. This would result in a credit of 75% on contributions to \$100, 50% on next \$450, and 33.33% on next \$600, with a maximum annual credit of \$500 on contribution of \$1,150 or more.

Alternatively, the Act could be amended to enable or require municipalities to provide a rebate or credit out of municipal revenues.

If a provincially-funded tax credit system is implemented, it will result in a reduction of provincial income tax revenues. Similarly, if a municipally-funded rebate or credit is implemented, it will result in cost increase or reduction of municipal revenues which may need to be recovered through other cost reductions or increases in other revenues.

If a provincially-funded tax credit system is implemented, additional financial controls may be required to ensure the authenticity of campaign contribution receipts used by contributors to claim their income tax credit. These controls could include the mandatory use of provincially-issued receipt forms, a requirement for candidates to report annually on receipts that have been issued, and more centralized provincial oversight and enforcement of contribution reporting by candidates.

DISCUSSION QUESTIONS

- 8.1 Do you agree with the proposal to provide a provincial tax credit for municipal campaign contributions? Yes No

- 8.2 Do you agree with the alternate proposal to enable municipalities to implement a tax rebate or credit program out of municipal revenues? Yes No
- 8.3 If a tax rebate or credit out of municipal revenues were to be implemented, should it be mandatory that all municipalities provide the incentive? Yes No
- 8.4 Do you have any comments regarding the proposal or alternative proposal, or do you have alternate suggestions?

Third Party Advertising

For the purposes of this discussion guide, a third party advertisement is an endorsement or message paid for by a third party rather than a candidate. A third party advertisement either supports or opposes the election of a candidate, or takes a position on an issue with which a candidate is associated, and can be communicated through all forms of media, including but not limited to print, broadcast, and electronic.

The Act does not currently address or restrict contributions to third party advertisers, and does not require registration or reporting from organizations that receive contributions and use those funds to advertise in support of municipal campaign issues or candidates.

PROPOSED POLICY SHIFT: Include provisions in the Act to address third party advertisers, including registration requirements, contribution limits, record-keeping requirements, and financial disclosure requirements.

DISCUSSION QUESTIONS

- 9.1 Should the Act be amended to include rules for third party advertising? Yes No

9.2 Do you have any comments regarding the proposal or alternate suggestions?

Campaign Spending Limits

The Act does not impose spending limits on candidates running in local authority elections. Spending limits are used in some provinces to ensure that it does not cost an exorbitant amount to be a successful candidate, and to ensure that all candidates are on a level playing field.

However, the existing contribution limits also serve to limit campaign spending, and the proposed changes to prohibit contributions from corporations, trade unions and employee organizations and to limit overall contributions from individuals to \$5,000 per year may further limit funds available for campaign spending.

We are interested in hearing your input regarding spending limits in local elections.

DISCUSSION QUESTIONS

10.1 Should campaign spending limits be considered? Yes No

10.2 Do you have any comments regarding spending limits, or alternate suggestions?

ACCESSIBILITY

Advance Vote

Many local authorities in Alberta opt to provide advance votes in order to provide additional opportunities for electors to attend the polls and cast their vote in an election. The Act allows for an elected authority to pass a resolution allowing an advance vote. The specific date(s) and time of the advance vote is determined by the returning officer.

PROPOSED POLICY SHIFT: Require all municipalities with a recorded population of over 1,000 to conduct an advance vote for any election, by-election, or vote on a question occurring within their jurisdiction.

If the municipality believes that the conduct of an advance vote is not warranted in their election, by-election, or vote on a question, the municipality would be able to apply to the Minister for an exemption.

DISCUSSION QUESTIONS

- 11.1 Do you agree with the proposed requirement for advance votes in municipalities with a population over 1,000? Yes No
- 11.2 Do you have any comments regarding the proposal or alternate suggestions?

Institutional Voting

An elected authority may, at their discretion, provide for additional voting stations at an institution to allow electors who are residents of a seniors' accommodation facility or are confined to a hospital, auxiliary hospital or nursing home. A seniors' accommodation facility is defined to include lodge accommodation or an accommodation facility where 10 or more people over the age of 65 reside.

PROPOSED POLICY SHIFT: Broaden the criteria for an institutional voting station to include other supportive living facilities based on the level of care rather than age.

DISCUSSION QUESTIONS

- 12.1 Do you agree with the proposed policy shift to expand the definition of seniors' accommodation facility to reflect the level of care of the facility's residents rather than age?
Yes No
- 12.2 Do you have any comments regarding the proposal or alternate suggestions?

Voter Identification Requirements

The Act was amended in 2012 to require identification that proves both identity and current residence. This has posed challenges for many electors whose identification reflects a post office box rather than the street address of their residence.

If the local authority has prepared a list of electors (voters list), an individual without identification may be permitted to vote if another person whose name appears on the list of electors attests (vouches) for them. However, very few local authorities prepare a list of electors, so this option is rarely available.

PROPOSED POLICY SHIFT: The use of attestations (vouching) will be expanded to include attestations by a voter who has provided proof of their own identity and residence in the jurisdiction, regardless of whether a voters list has been prepared.

The Minister will be able to establish alternate methods by which a person may provide proof of their residence where their address identification is based on a post office box.

The Minister will be able to establish a list of eligible types of identification that can be accepted as proof of identity and residence.

DISCUSSION QUESTIONS

- 13.1 Do you agree with the proposal to allow for additional flexibility in meeting the voter identification requirements? Yes No

- 13.2 Do you have any specific suggestions for documents that should be included in the Minister's list of eligible types of identification?

- 13.3 Do you have any comments regarding the proposal or alternate suggestions?

Campaign Activities At Voting Stations

The Act prohibits campaign activities such as canvassing or soliciting votes in a building where the voting station is located, but not in the surrounding area and parking lot. The Act also prohibits the display and distribution of campaign material inside the building.

PROPOSED POLICY SHIFT: Campaign advertising restrictions will be expanded to address a broader range of campaign activities within a 100 metre radius of the entrance or access to a voting station.

DISCUSSION QUESTIONS

- 14.1 Do you agree with the proposed amendment to restrict campaign activities within a 100m radius of the entrance or access to a voting station, and expand the list of prohibited campaign activities in this area? Yes No

14.2 Do you have any comments regarding the proposal or alternate suggestions?

OTHER AMENDMENTS

Substitute Returning Officer

The Act authorizes the elected authority (council or board of trustees) to appoint a returning officer. If a returning officer is appointed, but is unable to fulfill their duties, the chief elected official may appoint a substitute returning officer.

PROPOSED POLICY SHIFT: Elected authorities, and not the chief elected official, will have the authority to appoint a substitute returning officer.

Elected authorities will have the option to appoint a substitute returning officer at the same time the returning officer is appointed.

DISCUSSION QUESTIONS

- 15.1 Do you agree with the proposed amendment to have the elected authority, rather than the chief elected official, appoint a substitute returning officer? Yes No
- 15.2 Do you agree with the approach to allow the substitute returning officer to be appointed at the same time as the returning officer? Yes No
- 15.3 Do you have any comments regarding the proposals or alternate suggestions?

Prosecution of Offences

Contribution offences are addressed in the Act; however, such offences cannot be prosecuted more than six months after the offence occurred. Based on the four-year reporting cycle for campaign finances, offences are largely unenforceable because they cannot be identified within the required time limit.

PROPOSED POLICY SHIFT: Extend the time to prosecute an offence of contribution rules to five years after the alleged offence occurred.

DISCUSSION QUESTIONS

- 16.1 Do you agree with the proposal to extend the time to prosecute contribution offences?
 Yes No
- 16.2 Do you have any comments regarding the proposal or alternate suggestions?

Deadline For Reporting Requirements

Candidates who miss the deadline for filing campaign disclosure statements or campaign surplus wind-ups are provided a 30 day grace period, for which a \$500 late filing fee applies, before the delay is considered an offence. The grace period and late filing fee complicate the understanding and implementation of the deadlines, and compromise the enforceability of other campaign finance requirements.

A person is not eligible to be nominated as a candidate, and a councillor is disqualified from council, if they fail to file a disclosure statement by the due date (including the 30 day grace period), unless a court order applies.

PROPOSED POLICY SHIFT: Remove the 30 day period and associated late filing fee provisions, and thereby allow the general offence provisions to apply where a candidate has not complied with the requirements.

DISCUSSION QUESTIONS

- 17.1 Do you agree with the simplification of offence provisions for failure to comply with campaign disclosure or surplus requirements? Yes No
- 17.2 Do you have any comments regarding the proposal or alternate suggestions?

Consistency and Readability of Legislation

A number of minor amendments are required to remove redundant provisions, clarify continuing provisions and improve consistency and readability of the Act. These changes are not substantive policy changes, but are instead changes that will improve the understanding and enforceability of the Act.

DISCUSSION QUESTIONS

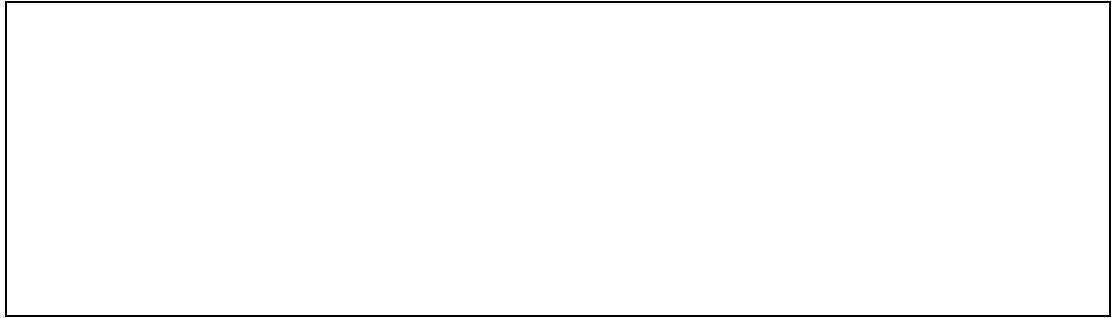
- 18.1 Please indicate changes that would improve the clarity and consistency of the Act.

Modified Voting Regulation

The Modified Voting Procedure Regulation is set to expire November 30, 2016. Please provide any comments or suggestions with respect to this regulation.

DISCUSSION QUESTIONS

- 19.1 Please provide any suggestions you have with respect to this regulation.

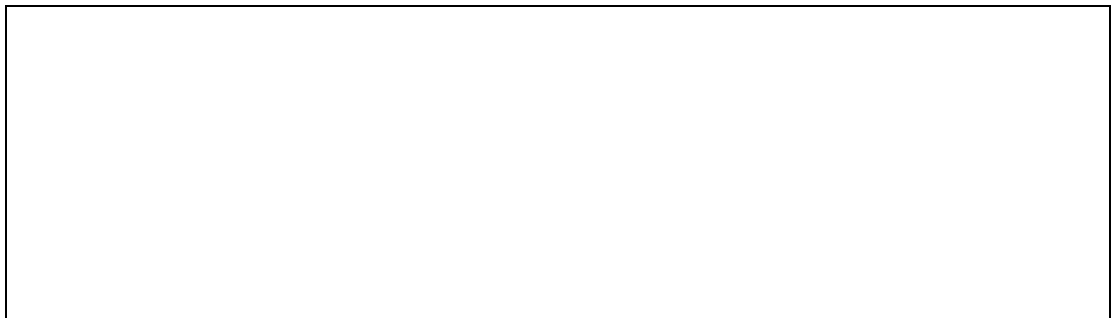


GENERAL QUESTIONS ON THE ACT

We are interested in hearing any other suggestions you may have with respect to the Act and associated regulations. Although time may not permit consideration of all suggestions by fall 2016, they will be considered as a part of any future comprehensive reviews of the legislation.

DISCUSSION QUESTIONS

- 20.1 From your experience, what parts of local authority elections work well?



20.2 What parts of the legislation should be changed?

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20.3 Is there anything else you want to suggest with respect to local authority elections in Alberta?

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APPENDIX – LEGISLATIVE REFERENCES

Campaign Finance Provisions for School Boards	
Local Authorities Election Act	118, 147.1-147.92
Local Authorities Election Forms Regulation	Form 3A, Form 21
Corporate, Union and Employee Organization Contributions	
Local Authorities Election Act	147.1, 147.2
Contribution Limits	
Local Authorities Election Act	147.11
Contributions made by Candidates	
Local Authorities Election Act	147.2
Candidate Registration	
Local Authorities Election Act	147.21
Local Authorities Election Forms Regulation	Form 3A
Campaign Finance Disclosure	
Local Authorities Election Act	118, 147.11, 147.3, 147.4, 147.7, 147.8
Local Authorities Election Forms Regulation	Form 21
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Local Authorities Election Forms Regulation	Form 8 , 8A
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Prosecution of Campaign Finance Offences	
Local Authorities Election Act	147.7, 147.8
Deadline for Reporting Requirements	
Local Authorities Election Act	147.7

