



# Recommended Changes to the Local Authorities Election Act

September 2011



## RECOMMENDED CHANGES TO THE LOCAL AUTHORITIES ELECTION ACT

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### BACKGROUND

The *Local Authorities Election Act* (LAEA) governs the processes associated with the nomination and election of a municipal council under the *Municipal Governance Act* and a board of trustees under the *School Act*.

This Act was reviewed by an MLA Committee in 2005 and has had several amendments in recent years. Members of the Alberta Urban Municipalities Association (AUMA) have voiced concerns with these amendments, particularly in regards to Bill 203 Local Authorities Election (Finance and Contributions Disclosure) Amendment Act 2009 which made sweeping changes pertaining to campaign contributions and financial accountabilities, without consultation with municipalities. While some of these concerns were addressed through Bill 9 Local Authorities Election Statutes Amendment Act 2010, a number of significant issues have not been resolved and were problematic during the 2010 election process. As well, the following resolutions from AUMA's members remain outstanding:

Previously Proposed Changes	Summary of Government of Alberta's Response
Extend the term of municipal office from three years to four years (2008 resolution).	No changes to the term of office will be made until clear consensus is reached through public consultation. There are no plans to pursue this issue.
Enable acknowledgement of contributions to local government candidates by tax deductions or tax credits (2009 resolution).	This cannot be supported at this time. Consideration could be given to an alternative form of funding, such as municipally funded political tax credits deducted against municipal taxes (similar to Manitoba and Ontario).

In recognition of the critical need for changes before the next election, AUMA's Board established a Task Force in the spring of 2011 to identify and research matters of legislative or administrative concern, and identify changes that the Board could consider as part of its intention to propose amendments to the Government of Alberta. The scope of matters considered by the Board included those pertaining to the election date, electoral term, nomination and voting processes, and financial contributions and disclosure requirements. The Board is presenting the numbered recommendations outlined in this document based on input from the Task Force as well as feedback from members at the June Mayor's Caucus.

The Task Force was chaired by a Board member and was comprised of elected officials, returning officers, municipal administrators, solicitors and clerks, and a representative from the Alberta School Boards Association. The Task Force suggested several changes to clarify and promote consistent and efficient processes pertaining to nomination and election provisions. The Board agreed with the Task Force that no legislative changes were required for advance vote stations and alternate voting methods (e.g., through mail and internet) as these are matters that are considered to be discretionary decisions for municipalities. A spring election was considered but not recommended due to concerns that this timeframe would be problematic. The 2009 resolution to enable tax credits/deductions for contributions to local government candidates was endorsed and the Board agreed with the need to fundamentally change provisions relating to financial contributions and disclosure as the current requirements are unclear and cumbersome and fail to recognize that there are inherent differences in the way that financial contributions are generated and managed by municipal candidates in various types of municipalities. The Board understands that the current administrative requirements are burdensome and complicated, often with little cost benefit, and

may not be adhered to by municipalities and candidates. As well, there are inequities in the enforcement and penalty provisions.

The Board endorsed some guiding principles for financial contributions and disclosure requirements and considered a number of options for how they could best be realized. The Board believes that the best option is to rescind legislation and give municipalities the option to pass bylaws that set out their standards (i.e., return to the former model prior to Bill 203 and Bill 9 amendments). If the Government is not receptive to this approach, another approach is to require municipalities with populations greater than 25,000 to pass bylaws specifying the requirements. In the event that the Government requires provincial legislation, the Board agreed on a number of recommendations to improve the financial contributions and disclosure provisions.

The Board presented AUMA members with a summary of the proposed amendments at the June 2011 Mayor's Caucus. The amendments were revised to reflect members' feedback and were then finalized and approved by the Board. The Board is presenting these amendments as numbered recommendations on the following pages. The first set of recommendations pertains to electoral term and processes and the second set pertains to financial contributions and disclosure requirements.

**PART 1 – RECOMMENDED CHANGES TO ELECTORAL TERM AND PROCESSES**

	<i>Recommendation</i>
1.	Change section 10(1) General Term of Office from three years to four years.
2.	<p>Change section 27 Form of Nomination as follows to clarify the action to be taken when there are less than the required signatures on nominations.</p> <p>27 Form of Nomination (changes noted in red font and through the use of the strikethrough)</p> <p>27(5) A nomination paper is not valid nor shall it be acted upon by the returning officer unless it contains at least 5 nominator's signatures.</p> <p>(6) Notwithstanding subsection (5), if a city has specified by bylaw the minimum number of electors required to sign the nomination of a candidate for office pursuant to subsection (2), a nomination paper is not valid nor shall it be acted upon by the returning officer unless it contains at least the number of nominator's signatures specified in the bylaw.</p>
3.	Change section 25 Nomination Day to provide the same time between nomination date and election date as the timeframe for federal and provincial elections (i.e., at least five weeks).
4.	<p>Change section 17 Substitute Returning Officer as follows to require a substitute returning officer to be appointed at the same time as the returning officer so that a replacement is immediately available in the event that the returning officer becomes incapable of performing his or her duties.</p> <p>17 Substitute Returning Officer (changes noted in red font and through the use of the strikethrough)</p> <p>17.1 (a) If an elected authority appoints a returning officer, it must, at the time of appointment, a person who has been appointed a returning officer becomes incapable of carrying out the duties of that office, the chief elected official of a municipality or chair of the board of trustees may, in writing, appoint a substitute returning officer person to act in the place of replace the returning officer if the returning officer becomes incapable of performing the duties of the returning officer's office.</p>

	<p>(b) If the secretary is the returning officer and becomes incapable of performing the duties of that office, the person who replaces the secretary will be the substitute returning officer.</p>
5.	<p>Prohibit campaign activity and signage at a voting station or within areas adjacent to a voting station on an election day or other voting day.</p>
6.	<p>Clarify section 48(1) Rules of Residence as follows to ensure that a voter only votes once, regardless of the voter’s location. This is the intention of the current Act but some of the wording in this section is unclear and needs to be changed. The suggested changes shown below require a person with more than one residence to declare one place of residence for the purpose of voting. Changes to this section will <u>not</u> affect the current provisions in the Act pertaining to summer villages.</p> <p>48 (1) Rules of residence (changes noted in red font and through the use of the strikethrough)</p> <p>48(1) For the purposes of this Act, the place of residence is governed by the following rules:</p> <ul style="list-style-type: none"> <li>(a) a person may be a resident of only one place at a time for the purposes of voting under this Act;</li> <li>(a) <ul style="list-style-type: none"> <li>(a.1) if a person has more than one residence in Alberta, that person shall, <del>in accordance with subsection (1.1), designate</del> <b>declare</b> one place of residence as the person’s place of residence for the purposes of this Act;</li> <li>(b) the residence of a person is the place where the person <b>ordinarily works, lives, resides</b> and sleeps and <b>the residence</b> to which, when the person is absent, the person intends to return;</li> <li>(c) a person does not lose the person’s residence by leaving the person’s home for a temporary purpose;</li> <li>(d) subject to clause (e), a student who <ul style="list-style-type: none"> <li>(i) attends an educational institution within or outside Alberta,</li> <li>(ii) temporarily rents accommodation for the purpose of attending an educational institution; and</li> <li>(iii) has family members who are resident in Alberta and with whom the student ordinarily resides when not attending an educational institution</li> </ul> <p>is deemed to reside with those family members:</p> </li> <li>(e) if a person leaves <b>his or her residence</b> <del>the area</del> with the intention</li> </ul> </li> </ul>

	<p>of making the person's residence at a new location elsewhere, the person loses the person's residence <del>is at the new location</del> within the area.</p>
7.	Require mandatory photo identification to validate the voter's identity.
8.	<p>Change section 98 Recount to clarify that a recount only need to be done at the actual voting station that had a problem and a complete vote recount is not required.</p> <p>Recount (changes noted in red font and through the use of the strikethrough)</p> <p>98 1.1 If the returning officer makes a recount pursuant to subsection (1), the returning officer may count the ballots cast at one or more voting stations as the returning officer considers necessary.</p>
9.	Delete all references in the Act to the appointment of an "official agent" since there is no role specified for such an agent.
10.	Ensure all forms and materials are updated to align with legislation in its entirety.

## PART 2 – FINANCIAL CONTRIBUTIONS AND DISCLOSURE REQUIREMENTS

	<i>Recommendation</i>
11.	Enable tax credits for contributions to local government candidates, provided that there are no resulting financial and administrative burdens to municipalities.
12.	<p>Adopt the following principles to guide the requirements for financial contribution and disclosure requirements:</p> <ul style="list-style-type: none"> <li>• <i>Transparency</i> – clear and understandable requirements that can be consistently applied</li> <li>• <i>Accessibility</i> – candidates can readily access information on the requirements for the acquisition, use, and reporting of contributions and the public can access disclosure documents</li> <li>• <i>Accountability</i> – candidates are held to a minimum standard of acceptable practices</li> <li>• <i>Equity</i> – penalties act as deterrents and apply equally to all candidates, regardless of won or lost campaigns</li> <li>• <i>Efficiency</i> – streamlined and effective requirements and administrative processes have a cost benefit, and appropriately mitigate risk associated with insufficient and/or inappropriate practices</li> <li>• <i>Communication and Engagement</i> - requirements are developed through dialogue with municipalities and timely and open communication ensures common understanding</li> </ul>
13.	Rescind provisions in the current legislation (Part 5.1) and give municipalities the option to pass bylaws to set standards appropriate for their communities.
14.	Only if the Government of Alberta will not support recommendation 13, require municipalities with populations greater than 25,000 to pass bylaws outlining financial contribution and disclosure requirements.
15.	Only if the Government of Alberta will not support recommendation 13 or 14, submit the changes outlined in recommendation 16 through 38 inclusive.
16.	Require a signed Declaration of Intent to confirm that a candidate is running in a local election before he or she can accept/use financial contributions.
17.	Remove the cap on self-funded contributions and campaign expenditures.
18.	Remove the cap on third party contributions if there is no tax

	<p>credit/deduction</p> <p style="text-align: center;">Or</p> <p>Establish a \$5,000 cap per year on third party contributions if there is a tax credit/deduction.</p>
19.	Allow candidates to accept a contribution from an individual who lives outside the local authority or province and from an Alberta business (i.e., registered in Alberta or registered to carry on business in Alberta), a trade union, or employee organization.
20.	Require candidates to issue a receipt and disclose third party contributions of \$100 or more by reporting the name of the third party contributor and his/her municipality of residence or head office as well as the amount contributed.
21.	Require candidates to report expenditures by category.
22.	Allow anonymous contributions less than \$100 to be used for campaign purposes.
23.	Require financial contributions to be deposited into a separate account at a financial institution in candidate's name.
24.	Require contributions for a by-election to be reported separately from a general election.
25.	Provide clear and comprehensive definitions and timeframes for campaign contributions, allowable campaign expenditures, campaign period, campaign surplus and campaign deficit.
26.	Require candidates to pay all bills associated with their election campaign.
27.	Require surplus and deficit amounts to be reported, regardless of whether candidate is running in the next election.
28.	Allow surplus and deficit amounts to be carried over to the next election period.
29.	Require surplus amounts to be accounted for and retained by the candidate in a separate bank account.
30.	Allow candidates to access carryover surplus funds as soon as a

	Declaration of Intent is filed for the next election.
31.	Require candidates to give the surplus funds to his or her municipality if not running in the next election.
32.	Require candidates to acknowledge and clear their deficit if not running again.
33.	Require candidates, including those who are exclusively self-funded, to file a disclosure statement by a specified deadline with no grace period/exception.
34.	Where practical, establish disclosure provisions for third party lobby groups through the LAEA and/or through other legislation.
35.	Consolidate penalty provisions in Part 6 Offenses section of the Act.
36.	Ensure that the application and enforcement of penalties applies equally to candidates, regardless of whether they won the election or not.
37.	Clarify responsibility for enforcing reporting requirements.
38.	Require candidates to retain records of their campaign contributions and expenditures for two years after the reporting date.