

Changes to the *Local Authorities Election Act (LAEA)* 2024

School Boards and School Board Trustee Candidates

Changes to the *LAEA* are intended to improve transparency and public confidence in local elections, including school board elections.

Below is a summary of the changes to the *LAEA* in the *Municipal Affairs Statutes Amendment Act, 2024* (MASAA) that impact school boards and candidates for school board trustee. The intent of this document is to provide guidance on the legislative changes; this document does not constitute legal advice. Please consult with your legal advisors if you feel you require legal advice.

About the *LAEA*

The *LAEA* establishes the framework for local elections in Alberta for 332 municipalities and 61 school boards. The *LAEA* governs processes and procedures for election workers, voters, and candidates during the nomination, election, and post-election periods. The *LAEA* also regulates campaign finances, third party advertising, and the Chief Electoral Officer role in local elections.

Bill 20, the *Municipal Affairs Statutes Amendment Act, 2024*

Changes to the *LAEA* in *Bill 20* are intended to strengthen local election requirements and procedures for fair and transparent elections.

For the upcoming local general elections, school boards should review and update any official documentation or websites to reflect these changes.

Candidate eligibility changes: Criminal offences

Bill 20 aligns eligibility and disqualification criteria between the *LAEA* and the *Municipal Government Act*. The *LAEA* amendments clarify that a school board candidate is disqualified if, after their nomination has been accepted, the candidate is:

- convicted of an offence punishable by imprisonment for five or more years;
- convicted of an offense related to municipal corruption, influencing a municipal official, or financial abuse of an elected office (Sections 123, 124 or 125 of Canada's *Criminal Code*); or
- convicted of using or expending anonymous or unauthorized contributions (*LAEA* Section 147.23).

For the upcoming election, a returning officer (RO) must disqualify a candidate for school board trustee if, after their nomination has been accepted, the candidate is convicted of one of these offences.

Candidate eligibility changes: Ombudsman

New candidate eligibility criteria establishes that an individual who is employed by the Office of the Ombudsman is ineligible to be a school board candidate unless they take a leave of absence. This amendment was made in response to 2018 changes that expanded the scope of the Alberta Ombudsman's office to include municipal matters.

For the upcoming election, an individual who is employed by the Office of the Ombudsman and is interested in becoming a candidate for school board trustee must take a leave of absence.

Candidate eligibility changes: Anonymous or unauthorized contributions

Changes also establish that a person who has filed an intent to run and begins fundraising and campaigning is not eligible to be formally nominated as a school board candidate if the person uses or expends anonymous or unauthorized contributions.

Returning officer eligibility changes

The *LAEA* prohibits a school board candidate from being a returning officer (RO) in the jurisdiction they are running in. With recent changes, the *LAEA* also prohibits a school board candidate's spouse, adult interdependent partner, child, parent, or sibling from being a RO in the same jurisdiction as the candidate.

Candidate criminal record checks

A new provision has been added to the *LAEA* allowing elected authorities (municipal councils and school boards) to pass a bylaw requiring a criminal record check for candidates in an upcoming local election.

Bylaws must be passed before December 31 of year before a general election.

If a bylaw is passed under *LAEA* Section 21.1, in addition to a completed nomination form, candidates for school board trustee must submit their criminal

record check. ROs cannot accept nomination packages that are not accompanied by the criminal record check, where such a bylaw is in effect.

Filed nomination papers, including criminal record checks where required by bylaw, must be made available in partial or redacted form, during regular business hours and in the presence of a RO to a person who has requested to examine the papers.

The results of the criminal record check must not be withheld or redacted except to ensure that the mailing address of the candidate and of the candidate's official agent is not disclosed.

Nomination deposits

Previously, nomination deposits could only be made by cash, certified cheque, or money order. Now, the *LAEA* permits deposits to also be made by e-transfer, debit, or credit cards.

For the upcoming general elections, school boards must accept nomination deposits by cash, certified cheque, or money order as well as by e-transfer, debit, or credit card.

Local political parties

The Local Political Parties and Slates Regulation prohibits local political parties from being involved in the upcoming elections for school board trustees in any local jurisdiction. School board candidates will not be able to have a local political party or slate name listed on the ballot.

Municipal permanent electors register

Prior to this change, municipalities could, by bylaw, direct a permanent electors register (PER) of residents in the municipality to be prepared. Now, municipalities, except summer villages, are required to prepare a PER.

School boards are not required to prepare or maintain a PER. School boards only need to access a municipal PER in the following situations:

1. To verify electors if they are offering special ballots.
2. For individuals who are vouching for the address of another elector at the polling station.

Otherwise PERs are not required for school board elections.

List of electors - enumeration

Previously, the *LAEA* enabled local authorities, by bylaw, to conduct an enumeration of electors to create

a list of electors. The list of electors could be used in the administration of the election or by candidates for campaigning purposes.

These provisions were repealed. School boards are no longer permitted to create a list of electors by enumeration, and elector information cannot be shared with candidates for school board trustee.

Election postponement

Under Bill 20, the Minister of Municipal Affairs may, subject to a regulation and by order, extend or adjourn voting or take any action considered appropriate if an emergency, disaster, or an unusual or unforeseen circumstance is likely to significantly affect the conduct of an election or the ability of electors to vote safely.

A regulation will be developed to provide further details on the processes, procedures and requirements for these actions.

Special ballot processes

As a result of the passage of Bill 20, any elector listed on a municipality's PER may apply to vote by special ballot. If an elector's name is not on the PER, they may submit an application to be added to the PER along with their application for a special ballot.

School boards retain the discretion on whether to offer special ballots by passing a resolution under section 77.1(2).

Should a school board offer special ballots for an election or by-election which is not jointly administered with a municipality, the school board will be required to ensure in advance that it can work with the relevant municipality to process special ballot applications which require adding individuals to or confirming that individuals are on the relevant municipality's PER.

Special ballot processes have been strengthened. This includes new signature verification requirements, scrutineer access to special ballots, and a requirement for special ballots to be mailed to the RO directly by the elector. For the upcoming general elections individuals must be on the PER to apply to vote by special ballot.

Form 22 – Request for Special Ballot Package, Form 23 – Special Ballot Package, Form 24 – Special Ballot Voting Instructions, and Form 25 – Special Ballot Certificate Envelope are being amended to align with the changes in Bill 20.

Bylaws for voter identification

Previously, local authorities were enabled, by bylaw, to establish the number and types of identification

required to verify a person's identity and residence to prove elector eligibility. Amendments to the *LAEA* repeal this bylaw-making authority and establish that any bylaws previously made by a local authority on this matter are voided.

School boards are no longer permitted to establish a voter identification bylaw, and any bylaw previously made by a school board under this authority is no longer valid.

Voter identification

Amendments for identification align with the new requirement for a PER and state that if the person is named on the PER, one piece of government photo identification confirming identity is sufficient to enable voting. If not on the PER, identification can be used to validate an elector's identity and address, which may include a person's driver's licence or an identification card issued by or on behalf of the Government of Alberta that contains a photograph of the person and the person's name and address. Identification that lists a post office box number is also acceptable.

Vouching

Vouching may only be used to validate a person's residence, not their identity, and the person vouching must be listed on the municipality's PER.

For the upcoming general elections, individuals who arrive at a polling station will not be permitted to be vouched for if they cannot provide government issued identification that validates their identity. The vouching by another elector can only be used to validate address.

For school board elections which are not administered jointly with a municipality, this will work a bit differently. The person vouching must be an eligible elector but is not required to be listed on a PER, as school boards do not prepare and maintain a PER for their elections.

Objecting to an elector

Candidates, candidates' official agents, and scrutineers are no longer permitted to object to a person making a statement of eligibility. There was no evidence required to make an objection, and the elector objected to was still permitted to vote. There were concerns that this could be used to intimidate electors. Therefore, the ability to object to a voter has been repealed.

Casting a ballot if in line at voting station closure

Amendments to the *LAEA* clarify that an elector in line to enter the voting station when a voting station closes and who wishes to vote must be permitted to do so.

Scrutineer duties and location

Scrutineers are representatives of a candidate who are permitted to attend voting stations to observe election procedures to ensure fairness and transparency. Amendments clarify that scrutineers may perform their duties at more than one voting station and cannot be impeded from doing their duties during elections and by-elections.

For the upcoming election, scrutineers may perform their duties at more than one voting station. There are no restrictions on the ability of a scrutineer to leave and re-enter a voting station. No officer shall impede a scrutineer from doing their duties during an election or by-election.

Third party advertising and financial requirements

For the upcoming general elections, ROs will be required to process registrations and financial disclosures in the same way for third party advertisers who take a position on an issue that is the subject of a vote on a bylaw or question on the ballot as they have previously for those third party advertisers who take a position for or against candidates.

The limit on third party advertising contributions was reduced from \$30,000 to \$5,000. Now contributions from individual Albertans and Alberta corporations, trade unions, or employee organizations must not exceed \$5,000 to any third party during the election advertising period.

Campaign Period

In Bill 20, the definition of the "campaign period" has been expanded to cover the entire election cycle. As such, the campaign period now begins January 1 of the year following a general election and ends December 31 immediately following the next general election; this essentially creates a revolving campaign period - as one campaign period ends the next one begins. This enables candidates for school board trustee to fundraise and incur campaign expenses throughout the full four-year election cycle.

ROs will be required to maintain a register of candidates who provide written notice that they intend to run; such notice can be filed prior to the year of the election. Individuals who intend to run or become nominated cannot accept a contribution or incur a

campaign expense unless they have provided written notice to the local jurisdiction in accordance with section 147.22.

Candidates for school board trustee who have filed an intent to run or have become nominated are required to submit a financial disclosure for the previous calendar year by March 1 if they accepted contributions or incurred expenses in that year.

For the upcoming general elections, if a candidate for school board trustee has filed an intent to run prior to December 31, 2024, they will be required to submit a financial disclosure by March 1, 2025, if they accepted any contributions or incurred expenses in 2024.

Corporate and union donations

Previously under the *LAEA*, corporations and unions were not permitted to donate to a candidate's campaign. This restriction has been removed, and amendments establish that corporate and union donations may not exceed, per election cycle:

- \$5,000 in total to all municipal candidates in a jurisdiction.
- \$5,000 in total to all candidates per school board election; and
- \$5,000 in total to all candidates per separate school board election.

For example, a corporation or union may donate to the campaigns of several candidates for trustee in a school board election. The combined total of the donations cannot exceed \$5,000.

Corporations associated with one another under the *Income Tax Act* (Canada) are considered a single corporation for campaign finance purposes, and union locals are considered to be part of the same union.

Candidate campaign financial disclosures and campaign surplus

Previously, the *LAEA* required local authorities to make candidates' campaign financial disclosure statements available to the public during regular business hours for four years after an election. The amendments to the *LAEA* now require these disclosures to be available on the local jurisdiction's website in perpetuity.

For the upcoming election, school boards must publish disclosures for candidates for school board trustee on the school board's website in perpetuity.

The *LAEA* already contained requirements for how campaign surpluses must be handled. Changes clarify that these provisions also apply to candidates for

school board trustee who have filed an intent to run but later withdraw from an election.

In both circumstances, if the surplus is \$1,000 or more the candidate for school board trustee has 60 days after filing the disclosure statement to donate a sufficient amount to a registered charity so that the surplus is reduced to less than \$1,000.

Withdrawal of candidates when the number of candidates does not exceed vacancies

Previously, once the nomination period closed, candidates could only withdraw if there remained more candidates than vacancies.

Now, if there are sufficient candidates for the vacancies at the close of the nomination period, any candidates can withdraw at their own discretion. This avoids the situation where only the first candidate to withdraw would be permitted to do so, which resulted in uncertainty if multiple candidates submitted their withdrawal on the same day.

Tabulators in local elections

Automated voting equipment is now prohibited. Local authorities are no longer permitted to use voting machines, voting recorders, or tabulators.

For the upcoming election, ballots cast in school board elections must be submitted and counted by hand.

Recount thresholds

New to the *LAEA*, if requested by the runner-up candidate for school board trustee, a RO must conduct a recount of votes if the votes between the candidate declared elected and the first runner up are within 0.5 per cent of the total number of votes cast for that office. The request can only be made up to 48 hours after the statement of results is announced or posted.

For the upcoming election, ROs must conduct a recount of ballots cast if the above criteria are met and the request is made within 44 hours immediately following the closing of the voting stations, or within 48 hours after the statement of results is announced or posted.

When do the changes take effect?

These changes took effect on October 31, 2024, and thus will be in effect for the 2025 local general elections.

Additional resources

To learn more, please refer to:

- Strengthening local elections and councils:
<https://www.alberta.ca/strengthening-local-elections-and-councils>
- Bill 20:
https://docs.assembly.ab.ca/LADDAR_files/docs/bills/bill/legislature_31/session_1/20230530_bill-020.pdf
- Amendment summary for Bill 20:
<https://www.alberta.ca/system/files/ma-municipal-affairs-statutes-amendment-act-fact-sheet.pdf>
- Municipal elections – Overview:
<https://www.alberta.ca/municipal-elections-overview>

Questions

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