

Local Elections and Councillor Accountability

Local Authorities Election Act and Municipal Government Act Engagement

Preamble

Municipal Affairs is exploring amendments to the *Local Authorities Election Act (LAEA)* and *Municipal Government Act (MGA)* to enhance accountability and public trust in local elections and local elected officials.

The *LAEA* establishes the framework for the conduct of elections in Alberta municipalities, school divisions, and Metis Settlements.

The *MGA* includes rules governing the conduct of those elected officials once on council, including code of conduct requirements and councillor disqualification.

Reviews of the *LAEA* typically occur following each municipal general election. The most recent election in October 2021 resulted in a number of citizen concerns regarding privacy of information on voter lists and the appropriateness of the current eligibility criteria for candidates.

Recent code of conduct violations in some Alberta municipalities and sanctions that were perceived as too weak or too punitive have also caused varying degrees of public concern.

As such, Municipal Affairs is looking at legislative amendments to improve the election process as well as enhance the public's trust in their local councils once elected.

Background

The scope of the engagement will focus on the following topics:

Topic	Current State
Enhanced Councillor Accountability <ul style="list-style-type: none">Eligibility criteria for candidatesDisqualification rules for councillorsCode of conduct	<p>The <i>LAEA</i> sets out eligibility requirements to run for council. There is no opportunity to challenge eligibility of candidates under the <i>LAEA</i>.</p> <p>Eligibility Criteria (<i>LAEA</i> Section 21)</p> <ul style="list-style-type: none">- Must be eligible to vote in that election.- Must be a resident of jurisdiction for the previous six months.- Cannot owe \$50 in taxes to the local authority or have owed over \$500 in the previous 90 days.- Must not have been convicted of election finance violations in the past 10 years.- Must file appropriate finance disclosure forms in the previous eight or three years, depending on type of disclosure.

	<p>The <i>MGA</i> outlines criteria that can result in the disqualification of a councillor.</p> <p>The <i>MGA</i> requires councils to pass a bylaw establishing a councillor code of conduct, and provides discretionary authority to establish a code of conduct for council committees and other bodies. The Code of Conduct for Elected Officials Regulation lists topics that must be included in the bylaw as well as possible sanctions. Each code of conduct must include a complaint system, and a bylaw review is required at least every four years. A councillor cannot be disqualified or removed from office for a breach of conduct.</p>
<p>Protecting Voters</p> <ul style="list-style-type: none"> • Objecting to electors • Privacy of information on voter lists 	<p>If the returning officer believes a person is not eligible to be an elector, they must make a note in the elector register that includes the rationale. The elector is still permitted to vote.</p> <p>Under Section 49 of the <i>LAEA</i> a municipality may, by bylaw, prepare a permanent electors register.</p> <ul style="list-style-type: none"> • The permanent electors register may contain electors' name, residential address, phone number, gender, and birthdate. • The register is not distributed to candidates; it is intended to assist the municipality in running the election. <p>Section 50 of the <i>LAEA</i> also allows a municipality to, by bylaw, direct the returning officer to prepare a list of electors who are entitled to vote in the municipal election. This list must be provided to a candidate upon request after the close of nomination day.</p> <ul style="list-style-type: none"> • The candidate must only use the list of electors for the purpose of campaigning for the election. • Misuse of the information on the list is an offence under Section 158. A person found guilty is liable to a fine of not more than \$100,000, or imprisonment for one year, or both.
<p>Strengthening Democracy</p> <ul style="list-style-type: none"> • Judicial recount rules • Third-party issues, advertising rules 	<p>Elections that use alternative voting equipment, such as voting machines or tabulators, are not eligible for judicial recount.</p> <p>The <i>LAEA</i> regulates third-party advertising for or against a candidate during the election advertising period. Third-party advertisers who address an issue, and do not state support or opposition to a candidate, are not subject to any provisions in the <i>LAEA</i>.</p> <p>Registration as a third party advertiser will mean that the provisions of the <i>Local Authorities Election Act</i> apply, including donations to that organization are limited to Alberta residents as well as corporations and trade unions that ordinarily do business in Alberta.</p>

Discussion Questions

Enhanced Councillor Accountability

1. Are the eligibility criteria for an individual to be nominated as a municipal candidate adequate?
 - a. If not, please provide your suggestions for improvement.
2. Are the criteria and process for disqualifying a councillor appropriate?
 - a. If not, please provide your suggestions for improvement.

Protecting Voters

1. Should candidates, their scrutineers, or their official agent continue to have the opportunity to object to an individual who has shown up to vote?
2. Should candidates be able to request access to the list of electors?

Strengthening Democracy

1. Should elections conducted with electronic voting equipment be eligible for judicial recount, where the judge can order the votes be recounted by hand or run through the electronic tabulator again?
2. Should third parties advertising for or against an issue that is the subject of a vote (e.g., municipal referendum question) be required to register?
3. Should third parties advertising any issues that have been raised by candidates in a municipal election be required to register?

Do you have any additional comments or considerations on these topics?

*An online survey will also be published on the alberta.ca website in summer 2022 for your input. Feedback may also be sent to Municipal Affairs, Municipal Policy and Engagement, at ma.engagement@gov.ab.ca by **July 11, 2022**.*