

NEW RULES FOR ALBERTA'S LOCAL ELECTIONS

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On September 1, 2020, Alberta's Bill 29: *Local Authorities Election Amendment Act, 2020* came into force. Its intent is to level the playing field for candidates of local, municipal and school board elections across Alberta by removing the "incumbent advantage."

Specifically, the Bill amends the Local Authorities Election Act (LAEA) to (i) increase the campaign donation limit from \$4,000 aggregate to \$5,000 per candidate for the campaign period (January 1 to December 31 of the year in which the general election is held), (ii) increase the candidate's contribution limit from \$4,000 to \$10,000, (iii) limit the number of people that an elector may vouch for, (iv) amend advertising rules to remove political advertising (advertising that does not promote or oppose a candidate), (v) allow candidates to focus on their campaigns by moving the financial disclosure due dates until after the election, (vi) cut red tape for municipalities and school boards, and (vii) require surplus campaign funds to be donated to charity rather than being carried over to the next election cycle.

Critics of the Bill say that the amendments will have the effect of limiting local government decision-making powers and weakening the democratic processes of local governments. Moreover, with no cap on total donation limits, NDP MLA Joe Cici called this change "the Wild West, in terms of donations." Concerning third party spending, critics are worried that there is no clarity with respect to limits since the regulations specifying third-party advertising limits have not yet been published.

Regardless of the criticisms, the new rules are now law. Those considering running for local public office and those interested in supporting local campaigns must familiarize themselves with these amendments.

The notable key changes include:

- *Section 25 – Nomination Day*: Nomination day has been moved up from 6 weeks before election day to 4 weeks, allowing an extended nomination period for potential candidates.
- *Section 28 - Nominations*: An elected authority, by way of a bylaw passed before December 31 of the year before a general election is held, may establish additional locations for the receipt of nominations in addition to the local jurisdiction office, allowing for more locations where a deputy can receive nominations from potential candidates.

- *Section 32 – Withdrawal of Nomination:* A person nominated as a candidate can now withdraw as a candidate at any time during the nomination period. Like the previous provision, within 24 hours after the close of the nomination period, a candidate may withdraw if the withdrawal will not cause there to be less than the required number of candidates to fill the vacancies.
 - *Section 53 – Proof of Elector Eligibility – Identification:* The identification requirements have been clarified to state that a person now only has to present one of the following pieces of identification: (a) one piece of identification issued by a Canadian government, whether federal, provincial or local, or an agency of that government, that contains a photograph of the person, the person's name and the address of the person's residence, (b) one piece of identification authorized by the Chief Electoral Officer that establishes the person's name and current address, or (c) one piece of other acceptable identification which is authorized by the Minister.
 - *Section 53 – Proof of Elector Eligibility – Vouching:* The legislation now prohibits an elector from vouching for a person if they have already vouched for another person, with the exception that an elector may vouch for more than one person if each person shares the same place of residence. This prohibition is in addition to the existing ban on an elector, who has been vouched for, vouching for another person.
 - *Sections 68, 69 and 70 – Official Agent, Candidate's Scrutineer and Bylaw Scrutineer:* The criteria for ineligibility have been expanded so that someone who has been convicted of an offence under the Election Finances and Contributions Disclosure Act within the previous ten years is ineligible to be appointed or recognized. This is in addition to offences under the LAEA, the Election Act, and the Canada Elections Act (Canada).
 - *Section 101 – Disposition of Election Material:* The procedure for ballot boxes to be opened and their contents destroyed has been expanded and clarified, including a maximum destruction date of 12 weeks after voting day or if a judge has ordered another date, as soon as practicable after that date.
 - *Section 147.1(1) – Interpretation for Election Finances and Contributions Disclosure:* The definition of "campaign expense" has been expanded to include any expense incurred for, or non-monetary contribution received, in relation to the production of a review engagement required by the LAEA. "Review engagement" means a review engagement as defined in the Chartered Professional Accountants Act.
- Section 147.2 – Limitations on Contributions:* The individual contribution limits have been increased from \$4,000 in the aggregate to candidates for election for each of councillors and school board trustees, to \$5,000 to any candidate for election as a councillor and \$5,000 to any candidate for election as a school board trustee. Also, candidates are now permitted to contribute \$10,000 to their campaigns, whereas previously, the candidate's contribution fell within the \$4,000 aggregate limits.
- *Section 147.22 – Acceptance of Contributions:* The exception to the prohibition on accepting

contributions or incurring campaign expenses has now been revised so that a person is permitted to accept a maximum of \$5,000 in the aggregate per year in contributions outside the campaign period and a candidate is permitted to make a personal contribution of a maximum of \$10,000 in the aggregate per year to the candidate's campaign.

- *Section 147.4 – Campaign Disclosure Statements:* The amendments require a candidate who has incurred campaign expenses or received contributions of \$50,000 or more to file a review engagement with the campaign disclosure statement. However, the power of an elected authority to pass a bylaw requiring a candidate to file a pre-election disclosure statement has been removed.
- *Section 147.5 – Campaign Surplus:* The provision has been completely revised so that if a candidate's disclosure statement shows a surplus, the candidate (whether elected or not) must within 60 days after filing the disclosure statement donate any surplus over \$1,000 to a registered charity, and for any amount less than \$1,000, either retain that amount or donate all or a portion of such amount to a registered charity. Following the donation, an amended disclosure statement must be filed within 30 days after the expiration of the 60-day period to show that the surplus has been appropriately dealt with. There are transitional provisions under section 147.51 to allow for amounts held in trust as of September 1, 2020 to be dealt with by January 1, 2022.
- *Section 147.52 – Campaign Deficit:* The new provision provides that if a candidate has a deficit, as evidenced on a candidate disclosure statement, the deficit must be eliminated within 60 days of filing. To eliminate any deficit, the candidate is permitted to accept contributions within the 60 day period of no more than \$5,000 from any individual and \$10,000 from the candidate's funds, notwithstanding other provisions of the LAEA. Within 30 days of the expiration of the 60 day period, an amended disclosure statement must be filed to show that the deficit has been dealt with.
- *Section 147.84(1) – Failure to File:* The section has been amended to clarify the penalties for failing to comply with the Election Finances and Contributions Disclosure requirements in Part 5.1, with a failure to comply within 30 days after the expiration of the legislated period resulting in a fine of not more than \$5,000.
- *Section 152 – Advertisement Distribution and Campaign Activities:* The provision deals with advertising and campaign activities at a voting station. The amendment replaces “on the property” with “within the boundaries of the land” for the display and distribution of campaign materials and campaign activities at a voting station on advance voting days or election day.
- *Part 8 – Third Party Advertising:* There have been significant changes to the provisions regarding third party advertising, including the new appointment of a Registrar for Third Party Advertising. To simplify the process, a third party may apply to the Registrar for registration if it is registered in a register for election advertising in more than ten local jurisdictions, at which point the local registrations are deemed

cancelled, and further local registration is not required. Third parties registering in less than ten jurisdictions are required to register with each local jurisdiction. In addition, issue-based political advertising has been removed from the legislation meaning that only candidate-backing or opposing advertising will be regulated by the LAEA. Advertising on specific campaign issues will be unregulated.

As local election season starts in earnest, it remains to be seen whether the amendments will have the desired effect of improving fairness and transparency for candidates, voters, and third-parties. If you need help in navigating Alberta's local electoral process, please contact us.

For more information, please refer to the full text of the [Bill](#) and the Alberta Legislative Assembly discussion available on [Hansard](#).

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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