

Local Authorities Election Act – Alberta Municipal Affairs Consultation

Recommendation:

That Executive Committee recommend to City Council:

That Administration submit the response in Attachment 1 of the July 17, 2012, Corporate Services report 2012COC113, to Alberta Municipal Affairs regarding proposed changes to the *Local Authorities Election Act*.

Report Summary

This report provides the official City of Edmonton response to Alberta Municipal Affairs regarding proposed changes to the *Local Authorities Election Act*.

Report

In the last four years, City Council wrote to the Minister of Municipal Affairs proposing amendments to the *Local Authorities Election Act*, including support for four-year terms and recommended changes to the candidate's disclosure requirements.

In late June 2012, Administration received from Alberta Municipal Affairs an invitation to provide a response to proposed changes to the *Local Authorities Election Act*. A response must be returned to Alberta Municipal Affairs by July 31, 2012.

Alberta Municipal Affairs developed 36 questions regarding various election-related activities including: Term of Office, Nominations, Eligibility to Vote, Campaign Contribution Limits, Holding and Use of Campaign Funds, Reporting on Campaign Funds, Ballot Procedures (alternative voting) and other issues.

Municipal Affairs staff advised that many of the questions presented were based on input previously received from the City of Edmonton, the City of Calgary and the Alberta Urban Municipalities Association.

Recognizing the urgency of the deadline, Administration drafted a response set out in Attachment 1, based on Council's prior decisions where possible.

However, some concepts (spring elections, inability to run for nomination once the candidate has resigned, mandatory photo identification, candidate declaration and residency requirements) were not previously considered by Council. Administration has considered its processes and provided a recommended response.

Corporate Outcomes

Providing a response to Alberta Municipal Affairs proposed changes to the *Local Authorities Election Act* is part of the Well Managed City and Organizational Excellence.

Justification of Recommendation

Changes to the *Local Authorities Election Act* will advance the goal of good municipal governance and ensure that the *Local Authorities Election Act* serves the needs of all Alberta Municipalities.

Attachments

1. *Local Authorities Election Act* – Alberta Municipal Affairs Consultation – City of Edmonton’s Response

Local Authorities Election Act – Alberta Municipal Affairs Consultation – City of Edmonton’s Response

Term of Office

This section applies to both municipal and school board elections.

Q1.: Currently under the Act, the term of office for a local elected representative is three years. Should the term of office for a local elected authority be changed to four years?

[Section 10]

Yes

Additional Comments:

City Council of the City of Edmonton confirmed its support to enable four-year terms in 2008 and reaffirms its support with this response.

Q2.: Election Day for a local election is held in October for a general election. Should the timing of elections be changed to the Spring for a general election year, and be aligned to occur mid-way between provincial elections? [This does not apply to summer villages because their general elections are held in the summer.]

No

Additional Comments:

The City of Edmonton has a long practice of not scheduling Council meetings between Nomination Day and Election Day. The recess provides all candidates the ability to discuss major civic issues during the campaign. While a spring election would allow Council orientation to occur prior to considering the operating budget for the next year, the following factors make it desirable for the election to continue in the Fall: mill rates have to be set prior to the end of April to allow tax notices to be mailed to meet legislative time frames; Alberta has a relatively short construction window, therefore, a number of planning items have to be dealt with during the winter and spring of each year.

Q3.: If general elections were held mid-way between provincial elections as suggested above, should the existing terms be extended from October 2013 until Spring 2014 to achieve this alignment?

No

Additional Comments:

Current members of Council committed to a 3 year term. City of Edmonton does not support a spring election. If a decision is made to have spring elections, it should begin in 2017 to allow candidates in 2013 to be advised prior to nomination day they are committing to a 3 ½ year term.

Q4.: If the timing for a general election was changed to occur in the Spring, which would be your preferred month in which to hold the general election?

March

Preferred month is March as there is still time to complete any legislated requirements, before May 1.

Nominations

This section applies to both municipal and school board elections.

Q5.: Currently, the Act does not specify the actions that a returning officer is to take if a submitted candidate nomination form does not contain the required number of elector signatures. Should the Act be changed to require the returning officer to declare the nomination form invalid if the form does not contain the required number of elector's signatures? [Section 27]

Yes

Additional Comments:

The City of Edmonton supports the Returning Officer having the authority to reject nomination papers for not having the required number of signatures. Returning Officers should not have the authority to verify the elector's or nominator's eligibility.

Q6.: Currently, a candidate who has resigned at some point during their term can submit a nomination form and run in the subsequent by-election for the same office. Should the Act be changed to prevent the candidate from submitting a nomination form for a by-election for the same office during the same term? [Section 22]

No

Additional Comments:

This is a basic democratic right. If a candidate is duly nominated by the required number of nominators their nomination should be accepted.

Eligibility to Vote

This section applies to both municipal and school board elections.

Q7.: Currently, the requirement for voters to produce identification to vote is not mandatory under the Act. Should the Act be changed to require that all persons provide identification to verify their identity to vote? [Section 53 provides a discretionary provision for the passing of a bylaw.]

No

Additional Comments:

The City of Edmonton currently has a by-law in place that requires identification to confirm identity and age of the voter. Current legislation allows the Returning officer to accept other forms of identification, at their discretion. The City does not recommend changing Section 53 from a discretionary to a mandatory requirement.

We do not support mandatory photo identification as not all electors possess photo identification.

Q8.: The current Act establishes rules to determine a person's place of residence for the purposes of voting. Are the rules of residence clear enough to determine who is eligible to vote in an election? [Section 47 and 48]

No

Additional Comments:

Section 48(1) needs to be clarified to ensure that a voter only votes once, regardless of the voter's ownership of multiple properties. This is the intention of the Act but the current wording of the rules of residence is unclear, leading to inconsistency and potential ineligible voting.

Q9.: Currently, the Act allows a person to vote in only one local jurisdiction, except for summer village property owners, who can vote in multiple jurisdictions. Should the Act be amended to adopt a standard approach for all Albertans? [Section 12, 47 and 48]

No Opinion

Additional Comments:

The City of Edmonton recognizes the importance of allowing summer village property owners their right to multiple votes. To allow greater clarity for municipalities conducting a General Election or By-Election Section 48 (1.1) of the Act should be deleted and the remainder of Section 48 should be amended.

Q10.: If a standard approach for all Albertans is adopted, should a person be allowed to vote in more than one local jurisdiction if they are a resident or own property in each local jurisdiction?

No

Additional Comments:

The single right to vote is based on residency not ownership.

Currently, a voter can vote for Mayor, Councillor (in one local jurisdiction) and for a choice of school board (a second local jurisdiction). The City of Edmonton believes a voter must declare one residence for the purposes of all associated jurisdictional voting.

Q11.: If a standard approach for all Albertans is adopted that allows a person to vote in only one local jurisdiction, should the person be allowed to choose which local jurisdiction they wish to vote in if they are a resident or own property in multiple local jurisdictions?

No

Additional Comments:

The *Act* currently gives direction to the voter and Returning Officer. Using the definitions found in Section 48 of the *Act*, the City of Edmonton recommends that all voters be required to designate one residence for the purpose of associated jurisdictional voting. The voter's designation should be based on their usual place of residence (where they intend to return to sleep, or when absent where they would intend to return to). This definition is easily understood by candidates, residents and election workers.

Q12.: Currently, the Act provides local authorities with discretionary power to prepare a list of voters. Should all local jurisdictions be required to prepare and use a voters list for all elections, by-elections, and votes on questions? [Section 50]

No

Additional Comments:

A voters list is expensive to establish and maintain throughout the election and intervening years. The Voting Register (Form 8) remains sufficient to confirm eligibility. Even with a Voter's List, a Voting Register remains a requirement to accommodate electors who are not identified on the voters list.

Campaign Contribution Limits

This section applies to municipal elections only.

Q13.: Currently, there is a limitation of \$5,000 on any campaign contribution by a person, corporation, trade union or employee organization to a candidate in any year. Should the limitation amount of \$5,000 be removed from the Act, which would mean that local jurisdictions would be able to establish their own limits, if they choose to? [Section 147.2]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to enable Council to pass bylaws associated with setting limits on campaign donations and reaffirms its support with this response.

Q14.: Currently, candidates in local elections are limited to paying a maximum of \$10,000 from their own funds to fund their campaign within a campaign period. Should the limitation amount of \$10,000 be removed from the Act, which would mean that local jurisdictions would be able to establish their own limits, if they choose to? [Section 147.2]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to enable Council to pass bylaws associated with limitations on self-funded campaign contribution limits in 2011 and reaffirms its support with this response.

Q15.: Currently, the Act prohibits specific entities and organizations from making campaign contributions to a candidate. Should these restrictions be removed from the Act, which would mean that local jurisdictions would be able to establish their own restrictions, if they choose to? [Section 147.1(1)(g)]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to give legislative authority to them in the Act to pass their own disclosure bylaws and reaffirms its support with this response.

Q16.: Currently, a potential candidate may accept campaign contributions and is not accountable for the funds collected if they decide not to submit a nomination form. Should a potential candidate be required to formally declare their intent to submit a nomination form to the local jurisdiction before they receive any contributions to their campaign? [Section 147.2 and 22]

No

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Candidates in large municipalities need the ability to collect funds as part of their consideration of running a campaign. In addition, candidates normally incur expenses prior to Nomination Day and not having access to their campaign funds prior to submitting their nomination form may limit their ability to campaign.

Any advice to candidates who collect funds and do not run would be to return them to the contributor or, if unable to locate the contributor, donate them to a charity of the candidate's choice.

Q17.: Currently, the Act does not permit campaign contributions from residents outside Alberta. Should the Act be amended to allow campaign contributions from persons who are normally resident outside of Alberta but who are a resident of Canada? [Section 147.2(3)]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Financial support from family and friends from outside the jurisdiction should not be discouraged.

Q18.: Currently, candidates must pay any anonymous campaign contributions to the municipality. Should the Act be changed to allow for an anonymous contribution to a campaign up to and including \$100? [Section 147.3]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Allow anonymous contributions less than \$100 to be used for campaign purposes.

Q19.: Currently, the Act requires that candidates issue receipts for all campaign contributions. Should the Act be changed to only require that receipts be issued for campaign contributions on amounts exceeding \$100? [Section 147.3]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Indicating the total amount and number of campaign contributions under \$100 should be sufficient.

Holding and Use of Campaign Funds

This section applies to municipal elections only.

Q20.: Currently, candidates are required to account for campaign contributions and open a campaign bank account. Should these requirements be removed from the Act, which would mean that local jurisdictions would be able to establish their own requirements, if they choose to? [Section 147.3]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Candidates should be encouraged to open separate bank accounts for all campaign contributions and expenses. However, legislating this requirement is problematic, as banking institutions have specific rules associated with opening and using campaign accounts which are not currently captured in the legislation. In addition, candidates incur ongoing costs for maintaining any bank accounts over the intervening 3 or 4 year period.

Q21.: Currently, there is a provision in the Act that is scheduled to come into effect on December 1, 2015. The provision states that if a candidate has a campaign surplus exceeding \$500, the surplus must be paid to the municipality, to be held in trust until the next general election. Should this requirement be removed from the Act, which would mean that local jurisdictions would be able to establish their own requirements, if they choose to?

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. This requirement imposes considerable administrative and banking costs on the municipality. Surpluses could be maintained and managed by the candidates in their own bank accounts.

Q22.: If a candidate declares their intention to be nominated in a general election, should the Act be changed to allow candidates to access surplus amounts carried forward from a previous campaign at the time this declaration of intent is made? [Section 147.5]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. The idea of a declaration is problematic as a candidate may choose not to run.

Q23.: Currently, the Act sets out requirements on how campaign surpluses exceeding \$500 are to be distributed in the event that a candidate decides not to run in the next general election. Should this requirement be removed from the Act, which would mean that local jurisdictions would be able to establish their own requirements for the distribution of campaign surpluses, if they choose to? [Section 147.5]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Part 5.1 of the *Local Authorities Election Act* should be rescinded and municipalities be given the legislative authority to pass their own disclosure bylaws in accordance with established requirements and include provisions for allowable expenses, contribution criteria and minimum disclosure requirements.

Q24.: Currently, the Act requires a candidate who is not running in the next general election to donate campaign surpluses exceeding \$500 to a registered charitable organization or the municipality. If the Act continues to specify how campaign surpluses are distributed, should candidates be required to give the surplus to the municipality, and remove the option to donate to a charity? [Section 147.4(1.1)]

No

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Subject to any final expenses, the candidate should be directed to pay the surplus to a charity of their choice before December 31 of the election year. In addition, the candidates should be required to provide a copy of the donation receipt to the municipality.

Q25.: Currently, the Act requires a candidate who is not running in the next general election to donate surplus funds in excess of \$500. If the Act continues to specify how campaign surpluses are distributed, should the requirement to donate the campaign surplus apply to any campaign surplus funds, including those under \$500? [Section 147.4(1.1)]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Subject to any final expenses, the candidate should be directed to pay the surplus to a charity of their choice before December 31 of the election year. In addition, the candidates should be required to provide a copy of the donation receipt to the municipality.

Q26.: Currently, the Act does not specify how campaign deficits are to be cleared. Should the Act be changed to require candidates to clear any campaign deficits?

No

Additional Comments:

Current legislation prohibits a candidate from contributing more than \$10,000 toward their campaign expenses. Deficits should be permitted to be carried forward to the next election to allow the candidate to pay off the debt.

Any campaign deficit captured within the filed disclosure statement still remains the candidate's personal debt. By filing the disclosure statement, there is no waiver of this financial responsibility by the candidate.

Reporting on Campaign Funds

This section applies to municipal elections only.

Q27.: Currently, candidates in a municipal election (excluding candidates who fund their campaign exclusively out of their own funds) are required to report information about their campaign funds in a disclosure statement to the municipality. Should the current reporting requirements be removed from the Act, which would mean that local jurisdictions would be able to establish their own disclosure requirements, if they choose to? [Section 147.4]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Specifically, Part 5.1 of the *Local Authorities Election Act*, be rescinded and that municipalities be given the legislative authority in the *Act* to pass their own disclosure bylaws in accordance with established requirements including provisions for allowable expenses, contribution criteria and minimum disclosure requirements. Any resulting disclosure bylaw would reflect Edmonton-specific requirements.

Q28.: Currently, campaign disclosure statements require that the contributors name and address be reported on contributions over \$100. Should the requirement to report the contributor's address be replaced with a requirement to report the contributor's municipality of residence only? [Section 147.4(1)(b)]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. Individual addresses are not required to confirm eligibility to contribute. Stating the contributor's municipality of residence is sufficient and respects donor privacy in a reasonable manner.

Q29.: Currently, the Act requires candidates to disclose the total amount of campaign surplus in excess of \$500. If reporting on campaign contributions and costs continues to be required, should candidates be required to report on any campaign surplus or deficit amount, including those under \$500? [Section 147.4]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. To facilitate a public disclosure, the disclosure report should report all contributions and expenses with any corresponding surplus or deficit.

Q30.: Currently, the Act requires candidates to disclose the total amount of campaign expenses, without requiring any breakdown by cost type or category. If reporting on campaign contributions and costs continues to be required, should candidates be required to report campaign expenses by category? [For example, total amounts spent on advertising, entertainment and hosting, office leases, staff support, travel, etc.]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. This will enable clear and consistent public disclosure. The former City of Edmonton disclosure bylaw categories included: Salaries, Rent, Office Supplies, Printing, Advertising, Hosting, Transportation and Other.

Q31.: Currently, a candidate in a general election whose campaign is funded exclusively out of the candidate's own funds does not have to report on campaign contributions and expenses. If reporting on campaign contributions and costs continues to be required, should the reporting requirements also apply to candidates who fund campaign expenses exclusively out of their own funds? [Section 147.4]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. The cap for self-funded contributions should be removed. Where a candidate has exclusively self-funded his or her campaign, the candidate should be required to complete and file a disclosure statement.

Q32.: Currently, the Act requires that the disclosure statement about campaign funds be filed by March 1 after a general election, or 120 days after a by-election. If not filed by that date, the Act imposes a \$500 late-filing fee to be paid to the municipality, but there is a 30 day grace period before the failure to file becomes an offence. If reporting on campaign contributions and costs continues to be required, should the 30 day grace period be removed? [Section 147.7(1)]

Yes

Additional Comments:

In 2011, Edmonton City Council confirmed its support to be given the legislative authority to pass their own disclosure bylaws and reaffirms its support with this response. The City of Edmonton's prior disclosure bylaw required submission of these statements on or before the last working day of January following the election. There should only be one deadline for disclosure reporting to ensure that candidates are clear on their obligations.

Q33.: If reporting on campaign contributions and costs continues to be required, should a candidate be eligible to run in a current election if they ran in a previous election and their disclosure statement was not filed? [Section 22]

No

Additional Comments:

There should only be one deadline date for disclosure reporting to ensure that candidates are clear on their obligations. All candidates should be treated equally. An elected candidate who fails to file a disclosure statement is guilty of an offence and is automatically ineligible to be a councillor (*Municipal Government Act*, Section 174 (1) (b.1) (i)), while an unelected candidate is only subject to a monetary fine which may or may not be paid. Either legislate that the candidate is ineligible or remove the automatic ineligibility in the *Municipal Government Act*.

Ballot Procedure

This section applies to both municipal and school board elections.

Q34.: Currently under the Act, the use of special ballots (e.g. mail-in ballots) is not mandatory. Should the Act be changed to require that local jurisdictions provide voters with the option to vote by special ballot for all elections and votes? [Section 77.1]

No

Additional Comments:

The City of Edmonton currently provides special ballots (mail-in ballots) as a voting option for its electors. However, this should not be a mandatory requirement. It should be based on business decisions for each municipality.

Q35.: Should alternative voting methods such as telephone and internet voting be allowed, provided that the method ensures the security and integrity of the voting process?

Yes

Additional Comments:

The City of Edmonton is currently working with Municipal Affairs to conduct a pilot in 2013. Legislation should enable, but not require, these forms of alternative voting.

Other Issues

Q36.: Do you have any other concerns, comments, or questions about the Act?

That special interest groups, who collect and expend funds to promote a platform during a general election, be subject to disclosure requirements similar to those imposed on candidates, by either legislation or through municipal bylaw.

That any municipal campaign contributions be tax deductible in the same way as contributions to provincial election campaigns.

That the time between Nomination Day and Election Day be increased by one week to five weeks.

That the Province consult the City of Edmonton's Returning Officer on the legislated forms to address issues with respect to ministerial requirements and legislation.