**Local Authorities Elections Act – Proposed Changes**

**Comments from Rocky View Forward**

**Campaign Finance & Contribution Disclosure**

1.1 *Candidates who fund their own election campaigns should be required to disclose their campaign finances, regardless of the amount of money funded.*

Strongly agree.

All candidates should be required to disclose their campaign finances, regardless of the amounts and/or sources. To do otherwise leaves residents/voters with incomplete information. There is a lack of transparency when candidates do not disclose their campaign financial information. There is no way to know whether those who did not disclose contributions have not actually exceeded the limits.

1.2 *All municipal election candidates, including self-funded campaigns should be required to open a campaign bank account.*

Agree.

Reporting and disclosure of campaign financial information is much easier if there is a separate bank account. There are very inexpensive bank account options available, so it is not clear that this requirement has any downside.

1.3 *Unions and corporations should not be allowed to donate to municipal election campaigns.*

Strongly agree.

There is no logic in prohibiting contributions from these organizations at the federal and provincial levels but not at the municipal level. If anything, because dollars go much further in a local election campaign, it is even more important to avoid the appearance of undue influence.

1.4 *Donations from fundraising functions should be subject to contribution limits.*

Strongly agree.

There is no reason to not include money from these sources as part of contribution limits. Money is money and whether or not an individual gives it to a candidate as part of a fundraising event the individual has still provided financial support to that candidate.

1.5 *Fundraising functions should be defined the same as fundraising functions in provincial elections.*

Agree.

The definition of fundraising functions for provincial elections is very basic – “any event held for the purpose of raising funds for a political entity, either by the political entity or on behalf of the political entity.” It is not clear why a different definition would be more appropriate at the municipal level.

1.6 *The dollar values and percentages for ticket sales, considered as a contribution, should be the same as in provincial elections.*

Neutral.

It would be much simpler to have only one set of rules at both the provincial and municipal levels. This would reduce confusion. However, at the local level, where money goes further in an election campaign, the $50 exemption may be too high. It might be more appropriate to have the amount of contribution equal the excess paid relative to the market value of what is received.

1.7 *Annual individual contribution limits should be the same as the individual limits for provincial elections at $4,000.*

Mostly agree.

There is no logic in allowing larger contributions at the local level. Expenses for municipal election campaigns are typical much lower than those for provincial election campaigns. In fact, a strong argument could be made that contribution limits should be lower at the municipal level due to the much smaller scale of municipal elections.

1.8 *The contribution limit for municipal elections should be applied “per donor, per year”.*

Strongly agree.

Local elections are supposed to be about local issues and local representation. People should be supporting a preferred candidate to represent them on their local issues. If they choose to support more than one candidate financially, they shouldn’t be able to obtain incrementally greater influence by doubling or tripling their donation limits.

1.9 *Do you have anything to add regarding campaign accounts, disclosure statements, contribution limits or banning corporate and union donations?*

Campaign donation disclosure should be on a real-time basis or at the very least, disclosed a meaningful time before each election (e.g. 10 days). Delaying disclosure until after the election keeps potentially relevant information from the voters when it would be useful. Modern technology means that timely disclosure should not be complicated.

Who a candidate is getting donations from can be critical information for voters in assessing their choices in an election campaign. The sources of a candidate’s financial support can provide useful information about that candidate’s allegiances.

**Campaign Expenses**

2.1 *All prospective candidates should be required to register before they spend campaign funds or accept campaign contributions.*

Strongly agree.

There is no logic in not requiring all candidates to register. Voters should be able to easily determine everyone who is running in an election, not just those who are not financing their own campaigns. Election processes should be as transparent as possible. Requiring all candidates to register and to disclosure the sources and amounts of their spending is an essential part of that transparency.

2.2 *Municipalities should be required to set campaign spending limits.*

Disagree.

This is an idea that sounds good in theory, but it is not clear how municipalities would decide on the appropriate limits. Given the variation in municipalities across the Province, a one-size-fits-all would be totally inappropriate.

It would be the incumbents who would set the limits, which would raise at least a risk of perceived bias. Name recognition is frequently a significant advantage for incumbents, this could increase the perceptions of bias.

It would be far more effective to require easily accessible real-time campaign contribution disclosure during the election campaigns. This would provide voters with the information to allow them to make judgements on the appropriateness of candidates’ spending patterns.

**Third Party Advertising**

3.1 *The Local Authorities Election Act should include rules on third party advertising.*

Strongly agree.

Transparency in campaign processes is critical to fair elections. Third party advertising rules permit voters to be aware of who is paying for advertisements intended to influence their decisions in the municipal election.

As well as identifying the third party paying for the advertisement it is essential that all third party advertisements be identified as such. Otherwise it is possible for third parties to disguise political advertisements as “opinion” pieces and/or news articles. This was a rampant abuse in the Rocky View County campaign for the 2017 election where a developer lobby group purchased prime space in the county newspaper for the duration of the election campaign and ran what appeared to be news and opinion pieces there throughout the campaign.

3.2 *The rules for third-party advertising should align with those used in the Election Finances and Contributions Disclosure Act for Alberta provincial elections (including definition of third-party advertiser, registration, spending limits, receipts, and reporting).*

Strongly agree.

It is not obvious what would be gained by having different rules at the municipal level. Two different sets of rules would create confusion, which would make compliance and enforcement more difficult.

Paralleling the same rules for eligible contributors (prohibiting corporate and union donations) is a critical component. If corporations and unions are only prohibited from contributing to individual candidates but can still contribute to third parties which can then advertise on behalf of those candidates, the prohibition would be largely meaningless.

It is also important that third party financial information is disclosed in an easily accessible manner on a real-time basis during election campaigns, or at least disclosed a meaningful length of time before the end of the election campaign. The logic for this is the same as for candidates’ contribution disclosure – transparency is critical. Voters have a right to know where money spent on political and election advertising is coming from before they make their choices on election day.

**School Board Trustee Elections**

4.1 *School board trustee candidates should be subject to the same campaign finance and disclosure rules as municipal candidates.*

Strongly agree.

There is no logic in having different, and/or possibly looser, rules apply to school board trustee elections/candidates.

4.2 *Do you have anything to add about the application of campaign finance and disclosure requirements to school board trustee candidates?*

School board trustees are responsible for significant decisions and should be held accountable for their election activities in the same way as candidates for municipal office.

With any luck, increasing disclosure requirements for candidates for school board trustee positions might also increase public awareness of the importance of these positions.

**Campaign Finance – General Clarifying and Technical Amendments**

All of the proposed clarifications and technical amendments appear to be very reasonable.

It is particularly important to clarify what is and is not an “election expense”. Paralleling the provincial definition is a very logical approach since it is thorough and having the same definition will reduce confusion.

The proposal to require all candidates to itemize their expenses in their financial disclosure is very important. An itemized accounting of campaign expenses provides voters with useful information and make candidates more accountable. This should also make it more difficult for third parties to pay for advertising supporting a specific candidate and have the candidate claim that he/she has paid for the advertising themselves.

**Voter Eligibility and Accessibility**

**Advance Votes**

6.1 *Municipalities greater than 5,000 should be required to hold an advance vote(s).*

Strongly agree.

There are always people who are unable to vote on the regularly-scheduled election day. These people are disenfranchised if there is no advance voting opportunity.

6.2 *Small municipalities (under 5,000) should have the option to hold an advance vote(s).*

Strongly agree.

There is absolutely no logic in prohibiting a smaller municipality from holding an advance vote if it so desires.

6.3 *Do you have anything to add about the proposed changes to the rules for advance votes?*

There need to be rules that govern how advance votes are conducted to ensure that individuals will not be able to vote at multiple advance voting locations and/or at the general election vote.

If there are multiple advance voting locations, it is critical that voters are restricted to voting only at the location that most closely corresponds to where they would have to vote on the general election day. To allow voters to vote at any of multiple locations means that it is extremely difficult to ensure that individuals are not voting more than once.

**Residency Requirements**

7.1 *An elector should not need to reside in Alberta for six months before Election Day to be eligible to vote in elections under the LAEA.*

Strongly agree.

Now that the six-month residency requirement has been removed from provincial elections, it would be extremely confusing and illogical to retain it for local elections. Clearly, voters would still need to be residents of the municipality on election day.

7.2 *Do you have anything to add about residency requirements?*

The Province needs to do a more thorough job ensuring that all municipal officials responsible for conducting local elections understand the actual residency requirements in the LAEA. In Rocky View, at least, there is a very poor understanding about what actually constitutes “residency”. I heard multiple Rocky View employees assert that staying in the County the night before a vote was sufficient to qualify as residency on election day.

**Voter Identification**

8.1 *Are there additional forms of voter identification that should be accepted on Election Day?*

Absolutely not. The list is already far too extensive for municipal elections in the absence of a voters’ list. The list was prepared for provincial elections where there is a voters’ list. Without a voters’ list, it is essential that proof of identity be stronger.

8.2 *An elector who has shown appropriate identification and signed the required statement should be able to vouch for another elector, regardless of whether there is a list of electors.*

Strongly disagree.

Unless and until proof of identity requirements have been dramatically improved, there is no justification for permitting anyone to vouch for another potential voter. No voters’ list, no vouching. The controls in the system simply cannot be strong enough to remove the real risk of voter fraud in those situations.

This is especially true given the reality that many (if not most) election day procedures do not emphasize the legal importance of signing the Form 8s. Simply having someone sign a form that they have not read does not provide any incremental certainty about the identity of a second person. Scrutineers at both the advance vote and election day vote in Rocky View can assert that no election official ever asked anyone to read the Form 8. Voters were simply told to put their name at the top and sign at the bottom. Scrutineers rarely, if ever, say any voters actually taking the time to read the content of the Form 8 before signing it.

8.3 *Do you have anything to add about voter identification or the proposed changes to vouching?*

As has been pointed out, there are serious flaws in the identification available to many Albertans. This reality should not be used as an excuse to not require potential voters to adequately substantiate their eligibility to vote.

Many of the “approved” pieces of identification from the provincial list may have both name and address, but since they do not have a photo of the individual, there is no way to substantiate that the identification actually belongs to the person presenting it. This is not problematic for provincial elections where there is a voters’ list because an individual’s identification and eligibility to vote are established as part of the process of creating / revising a voters’ list.

To address the risk of electoral fraud, the LAEA must be amended to require individuals to provide photo identification and, if that photo identification does not include a verifiable address within the municipality, they should also be required to provide a second piece of identification that links them to a verifiable address.

Scrutineers in the 2017 election saw innumerable pieces of identification from Alberta’s list of approved identification that could not substantiate whether the individual was actually a resident of Rocky View County, let alone the specific electoral division within the County. Drivers’ licences with post office boxes listing Calgary or Cochrane are completely useless as verification that someone resides in the County.

Alternatively, a utility bill with someone’s name and local address on it does substantiate that a person by that name is resident in the County. However, it provides no verification that the person presenting the utility bill is actually the person listed on the bill. It is highly suspicious when individuals show up alone at a polling station where the nearest residence is nearly a mile away and use a utility bill as their only identification. This situation was repeated many times. All of these individuals almost certainly drove to the polling station, yet chose not to use their drivers’ licences as identification.

Neither of these situations are appropriate. It is critically important that the public can have confidence that only eligible voters will be allowed to vote.

**Substitute Returning Officer**

9.1 *The council/board (e.g. council or board of trustees), rather than the Mayor/Reeve/Board Chair, should appoint a substitute returning officer if the returning officer is unable to fulfill their duties.*

Disagree.

The stakeholders who have argued that the current situation gives the chief elected official inappropriate power during an election campaign are making a valid point. However, rules also have to be practical and workable. Requiring the entire municipal council to meet to appoint a substitute returning officer in the midst of the election campaign is not likely to be feasible. What if the returning officer had a crippling heart attack the night before the election?

The current provisions for appointing a substitute returning officer should be changed, but not as is being suggested. A much more workable solution would be for the full council to appoint both a returning officer and a substitute returning officer at same time, with clear provisions that the substitute would only serve if the returning officer was incapable of continuing to perform his/her duties. Alternatively, the authority to appoint a substitute returning officer could be left with the chief elected official but with additional provisions that would permit a majority of council to overrule the appointment. Then, if the chief elected officer appointed a substitute who was glaringly inappropriate, others on the municipal council could step in to rectify the situation.

**Nomination Day & Nomination Papers**

10.1 *Returning officers should be able to refuse nomination papers that are not sworn/affirmed by a potential candidate.*

Strongly agree.

There are clear eligibility requirements for candidates under the LAEA. It only makes sense that the returning officer has the authority to ensure that all candidates are aware of those requirements and are asserting that they satisfy all the requirements.

**Election Campaign Advertising at Voting Stations**

11.1 *Please choose one of the following: Campaign activities should be prohibited within 25 metres/50 metres/100 metres of a facility being used as a voting station/ or on the property surrounding a building used as a voting station.*

Actual campaign activities should be prohibited within 50 metres of a voting station. The specific distance is less important than clarifying where campaign advertising is and is not permitted. This is the weakness in the last alternative – it is too vague and would result in different distances for different voting stations.

11.2 *The returning officer should have the authority to enforce campaign advertising at voting stations.*

Strongly agree.

If the LAEA is amended to specify a neutral zone around voting stations where campaign advertising is prohibited, then the returning officer must have the authority to enforce those provisions.

11.3 *Do you have anything to add about campaigning at voting stations?*

Provisions prohibiting campaign activities in the immediate vicinity of voting stations must be carefully drafted to ensure that they prohibit only campaign-related activities.

These provisions should not be used to stop residents from distributing other information to people coming to the voting stations. There should be a requirement that residents who wish to distribute any material near voting stations obtain advance approval from the returning officer. Once that approval has been given, it should not be possible for individuals who object to the distribution of the non-campaign related material to insist that the returning officer stop the activity. We are raising this point because in the last election campaign individuals had obtained prior permission to distribute information that clearly was not campaign-related outside a voting station. Others who objected to the information being widely distributed complained to the returning officer, insisting that the distribution stop immediately.

**Candidate List**

12.1 *Municipalities should be required to release a list of candidates immediately after the time limit for withdrawal of nominations has passed.*

Strongly agree.

It makes no sense that this is not already required. Municipalities should have the responsibility to ensure that their residents know who is running in a municipal election.

12.2 *Do you have anything to add about posting information during an election?*

Municipalities should be encouraged (if not required) to provide contact information as well as the names of all candidates. For residents to be informed about their choices in a municipal election, it is critical for them to know who is running and how to find more information about each of the candidates.

**Special Ballots**

13.1 *The Minister of Municipal Affairs should not appoint special ballot advisors to review questionable special ballots.*

Agree.

So long as the provisions for special ballots are sufficiently clear in the LAEA, then there should be no need for a provincial role. The existing provisions undermine the returning officer’s responsibility for administering the election.

13.2 *The returning officer should have the authority to accept or reject a special ballot.*

Agree.

The returning officer is responsible for all other aspects of the election. It only makes sense that he/she is also responsible for decisions on special ballots. Clearly, there should be staff in Municipal Affairs who can provide advice on an as-needed basis to returning officers on this issue as well as others.

13.3 *Municipalities should not have to notify the Minister of the use of special ballots.*

Neutral.

Although the responsibilities for administering special ballots should clearly rest with the returning officers, it could well be useful to know when and for what purposes special ballots are being used.

**Additional Items for Consideration**

14.1 *Do you have anything to add about the regulations under the Local Authorities Election Act?*

As I understand the proposal, Municipal Affairs is suggesting that the provisions currently handled in regulations to the LAEA will be incorporated directly into the legislation. I cannot speak to the appropriateness of this proposal for the city-specific regulations, but for the Modified Voting Procedure regulations, having the provisions in the LAEA itself would be an improvement.

However, the existing provisions for modified voting procedures need to be amended to minimize the risk of abuse and electoral fraud. As the regulations are currently drafted, they permit the unconstrained use of multiple voting stations within voting subdivisions. The use of multiple voting stations is often appropriate to deal with long distances, etc. While this is reasonable, it is essential that where there are multiple voting stations there must be constraints to avoid the risk of people voting multiple times in the multiple voting stations.

In provincial and federal elections there are multiple voting stations within each riding. Voters, however, are only permitted to vote in one voting station – typically the one closest to their residence. This is a critical control that must be included in the LAEA whenever multiple voting stations are used.

14.2 *Municipalities should have the authority to create rules regarding the use of cell phones in voting stations.*

 Agree.

There should be some rules about how cell phones may be used in voting stations. For example, a prohibition on photography within voting stations should extend to cameras in cell phones.

The authority to create rules for the use of cell phones in voting stations should be restricted to uses that may disturb others or that may pose a risk to the secrecy of ballots. Other uses, such as sending text messages, should not be able to be prohibited.

14.3 *Do you have anything to add about the use of cell phones in voting stations?*

If municipalities are to have the authority to restrict some uses of cell phones, the LAEA must stipulate that the rules have to be published in advance of the election and cannot be changed without notice.

It is also important that the same rules apply to everyone in the voting station (election staff, scrutineers, voters) since it is critical that such rules are not used to unduly restrict what scrutineers may do while at the voting station.

14.4 *Do you have anything to add about the definitions of “candidate” and “campaign period”?*

The proposed changes largely make sense. Care needs to be taken to ensure that the definition of “candidate” captures self-funded candidates who do not need to register for campaign contribution purposes. Possibly expand the definition to include both those individuals who have registered under Sec. 147.21, which is required before the individual can accept any campaign contributions, and all individuals who file nomination papers.

It is not clear why the portion of the “campaign period” after the election date should be longer for by-elections than for general elections. With municipal elections being held in October, there are significantly fewer than 180 days after a general election until the end of the calendar year.

14.5 *Do you have any other comments or suggestions to add regarding the proposed changes to the Local Authorities Election Act?*

The proposed amendments to the LAEA are missing two key areas in which changes should be made – facilitating the creation of municipal voters’ lists and clarifying the role of scrutineers.

**Municipal Voters’ Lists**

We cannot understand why the Province is not mandating municipal level voters’ lists, as is the practice in all other provinces with the exception of Saskatchewan.

All reputable sources on democratic elections emphasize the importance of ensuring that only eligible voters vote and of having procedures in place to make it difficult for individuals to vote more than once. These sources, almost without exception, identify voters’ lists as the primary and easiest tool to achieve these objectives.

Some basic technology could take the existing provincial level permanent electors’ registry and transform it relatively easily into municipal level elector registries. Much of what would be needed from a technological perspective could be modelled on what has been successfully used in other provinces. This would be a refreshing leap into the 20th century for local politics in Alberta and could be achieved before we were into the third decade of the 21st century.

There is no apparent rationale for not having municipal level voters’ lists. If they are important for provincial elections, why are they also not important for local elections?

Given that the proposed changes to the LAEA do not include the introduction of municipal voters’ lists, it is essential that Sections 49 and 50 of the LAEA be clarified. As currently drafted, these provisions have a perceived ambiguity regarding whether an enumeration must be conducted as part of the creation of a permanent municipal electors’ registry. The provisions require the municipality to prescribe procedures for an enumeration (49(1)(b)), but then go on to permit the municipality to use any source of information in compiling and revising the list (49(3)). This strongly suggests that if the information can be compiled from sources other than an enumeration, then an enumeration is not mandatory. But then, why is it mandatory to set out how an enumeration would be conducted?

The provisions that permit a municipality to create its own permanent list of electors should be restructured to make them as clear as possible and to ensure that they are designed to facilitate the creation of local level voters’ lists.

**Clarifying the role of scrutineers**

The LAEA provides very little guidance on the roles, rights, and responsibilities of scrutineers. In a normal world, this should not be problematic since it would be reasonable to assume that the LAEA, like any other piece of legislation, would be interpreted in a manner consistent with the Supreme Court’s guidance on how legislation is to be interpreted.

Unfortunately, the experience in Rocky View County’s 2017 municipal election clearly demonstrated the critical need for legislative clarification to avoid a repeat of the debacle caused by the County’s returning officer’s interpretation of what scrutineers could and could not do. To a somewhat lesser extent, similar issues were also experienced at the previous 2013 election in Rocky View.

Section 69(5) provides that scrutineers may “observe the election procedure” and “observe any person making a statement”. Any reasonable statutory interpretation of those words would conclude that scrutineers should actually be able to see the documents being presented to election workers. However, Rocky View’s returning officer concluded that being in the same room was all that was required to “observe” and all that would be allowed. Partway through the advance polls, scrutineers were instructed that they must sit far enough away from the deputy returning officers’ tables that they could not even always hear what was being said, let alone observe, in any meaningful way, what was happening. This made a complete mockery of the important role scrutineers should have in ensuring a fair election process.

Prior to the advance poll date, the returning officer had confirmed with scrutineers that there would be no problem with them writing down peoples’ names as they came in to vote. Scrutineers had also confirmed with staff at the Office of the Privacy Commissioner that there were no FOIP restrictions on making such a list. After a few individuals complained about having their names written down, the returning officer reneged on her earlier commitment.

A number of candidates felt that this was an important control to discourage multiple voting practices that, anecdotally, had been present in the 2013 election. This was seen as particularly critical given that the County had, at the last minute, decided to have multiple advance polls with no controls over which advance poll people could vote at – meaning that there were no effective controls to stop unscrupulous individuals who might consider voting more than once. Probably not coincidentally, the people complaining about having had their names noted down at the advance poll were supporters of individuals who were rumoured to have benefited from multiple voting in 2013.

The returning officer also made another highly questionable interpretation of Sec. 69(1) of the LAEA by requiring that all authorization forms from candidates for their scrutineers needed original signatures from the candidates and the scrutineer – that scanned copies of signatures were not acceptable. Given the large distances within a rural municipality and the tight timeframes associated with voting days, this was a significant impediment for the authorization of many scrutineers. This was inexplicable given that scanned signatures are routinely accepted for almost any other legally binding document.