

2010 Bill 9

Third Session, 27th Legislature, 59 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 9

**LOCAL AUTHORITIES ELECTION
STATUTES AMENDMENT ACT, 2010**

MR. JOHNSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 9
Mr. Johnson

BILL 9

2010

LOCAL AUTHORITIES ELECTION STATUTES AMENDMENT ACT, 2010

(Assented to , 2010)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Local Authorities Election Act

Amends RSA 2000 cL-21

1(1) The *Local Authorities Election Act* is amended by this section.

(2) Section 22(4)(j) is amended by striking out “a co-operative association under the *Co-operative Associations Act* or” **and substituting** “an association under”.

(3) Section 48 is amended

(a) by repealing subsection (1)(a) and substituting the following:

- (a) a person may be a resident of only one place at a time for the purposes of voting under this Act;
- (a.1) if a person has more than one residence in Alberta, that person shall, in accordance with subsection (1.1), designate one place of residence as the person’s place of residence for the purposes of this Act;

Explanatory Notes

Local Authorities Election Act

1(1) Amends chapter L-21 of the Revised Statutes of Alberta 2000.

(2) Section 22(4) presently reads in part:

(4) Subsection (1) does not apply to a person by reason only

(j) that the person is a member of a co-operative association under the Co-operative Associations Act or the Rural Utilities Act or is a member of a cooperative under the Cooperatives Act;

(3) Section 48(1) presently reads:

48(1) For the purposes of this Act, the place of residence is governed by the following rules:

(a) a person may have only one place of residence for the purposes of this Act;

(b) the residence of a person is the place where the person lives and sleeps and to which, when the person is absent, the person intends to return;

(b) by adding the following after subsection (1):

(1.1) For the purposes of subsection (1)(a.1), a person shall designate the person's place of residence in accordance with the following factors in the following order of priority:

- (a) the address shown on the person's driver's licence or motor vehicle operator's licence issued by or on behalf of the Government of Alberta or an identification card issued by or on behalf of the Government of Alberta;
- (b) the address to which the person's income tax correspondence is addressed and delivered;
- (c) the address to which the person's mail is addressed and delivered.

(4) Section 147.1(1) is amended

(a) in clause (a) by adding "but does not include services provided by a volunteer who voluntarily performs the services and receives no compensation, directly or indirectly, in relation to the services or time spent providing the services" **after** "from that candidate".

(b) in clause (d)

(i) by striking out "means a person" **and substituting** "means an individual";

(ii) by striking out "or a person" **and substituting** "or an individual";

(c) in clause (f) by striking out "includes a candidate, any other individual and an organization" **and substituting** "includes any individual other than a candidate, and any organization".

- (c) *a person does not lose the person's residence by leaving the person's home for a temporary purpose;*
- (d) *subject to clause (e), a student who*
 - (i) *attends an educational institution within or outside Alberta,*
 - (ii) *temporarily rents accommodation for the purpose of attending an educational institution, and*
 - (iii) *has family members who are resident in Alberta and with whom the student ordinarily resides when not attending an educational institution*

is deemed to reside with those family members;
- (e) *if a person leaves the area with the intention of making the person's residence elsewhere, the person loses the person's residence within the area.*

(4) Section 147.1(1) presently reads in part:

147.1(1) In this Part,

- (a) *"campaign contribution" means any money, personal property, real property or service that is provided to or for the benefit of a candidate or the candidate's election campaign without fair market value compensation from that candidate;*
- (d) *"candidate" means a person nominated as a candidate for election as a councillor of a municipality under this Act or a person who intends to be nominated as a candidate for such an election and accepts campaign contributions or incurs campaign expenses;*
- (f) *"person" includes a candidate, any other individual and an organization other than a corporation, employee organization or trade union;*

(5) The following is added after section 147.1:

Candidate self-funded election campaign

147.11(1) Any money up to and including \$10 000 paid by a candidate out of the candidate's own funds for the purposes of the candidate's election campaign is not a campaign contribution for the purposes of this Part.

(2) If a candidate's entire election campaign is funded exclusively out of the candidate's own funds, the candidate is not required to

- (a) open and deposit the funds in a campaign account at a financial institution in the name of the candidate's election campaign,
- (b) file a disclosure statement with the municipality setting out the total amount contributed by the candidate to the candidate's own election campaign, or
- (c) file a disclosure statement with the municipality listing the campaign expenses incurred during the candidate's election campaign.

(3) This section does not apply if the candidate receives or accepts any campaign contribution from any other person, corporation, trade union or employee organization.

(6) Section 147.2 is amended

(a) in subsection (1) by striking out "campaign period" and substituting "year";

(b) by adding the following after subsection (1):

(1.1) Money paid by a candidate out of the candidate's own funds to the candidate's election campaign shall not exceed \$10 000 in any campaign period.

(c) in subsection (5) by adding "or a candidate" after "A person".

(5) Candidate self-funded election campaign.

(6) Section 147.2 presently reads in part:

147.2(1) Campaign contributions by any person, corporation, trade union or employee organization to a candidate shall not exceed \$5000 in any campaign period.

(5) A person who contravenes this section is guilty of an offence and liable to a fine of up to \$5000.

(7) Section 147.4 is amended

- (a) by repealing subsection (1) and substituting the following:**

Campaign disclosure statements

147.4(1) If a candidate's election campaign is funded exclusively from campaign contributions from any person, corporation, trade union or employee organization or is funded from a combination of money paid by the candidate out of the candidate's own funds and campaign contributions from any person, corporation, trade union or employee organization, then, on or before March 1 immediately following a general election or, in the case of a by-election, within 120 days after the by-election, a candidate shall file with the municipality a disclosure statement in the prescribed form, which must include

- (a) the total amount of all campaign contributions received during the campaign period that did not exceed \$100 in the aggregate from any single contributor,
- (b) the total amount contributed, together with the contributor's name and address, for each contributor whose contributions during the campaign period exceeded \$100 in the aggregate,
- (c) the total amount of money paid by the candidate out of the candidate's own funds,
- (d) the total amount of any campaign surplus exceeding \$500, including any surplus from previous campaigns, and
- (e) a financial statement setting out the total amount of revenue and expenses.

(1.1) If a candidate does not file nomination papers before the next general election, the candidate shall, within 6 months after the date of the next general election, donate the amount of money disclosed under subsection (1)(d) to a registered charitable organization as defined in the *Income Tax Act* (Canada) or to the municipality where the candidate was declared elected in a previous general election.

- (b) by repealing subsections (4) and (5).**

(7) Section 147.4 presently reads in part:

147.4(1) On or before March 1 immediately following a general election or, in the case of a by-election, on or before 120 days following the by-election, a candidate shall file with the municipality a disclosure statement in the prescribed form, which sets out

- (a) the total amount of all campaign contributions received during the campaign period that did not exceed \$100 in the aggregate from any single contributor,*
- (b) the total amount contributed, together with the contributor's name and address, when the contribution of that contributor during the campaign period exceeded an aggregate of \$100, and*
- (c) a list of campaign expenses.*

(4) If a candidate's total amount of campaign contributions or campaign expenses exceeds \$10 000 for a campaign period, the candidate's disclosure statements required under this section must be audited in accordance with generally accepted auditing standards.

(5) A municipality may, by a bylaw passed prior to April 15 of a year in which a general election is held, require that the disclosure statements required under this section for a candidate whose total campaign contributions or campaign expenses for a campaign period are \$10 000 or less be audited in accordance with generally accepted auditing standards.

(8) Section 147.5 is amended

- (a) by repealing subsection (1) and substituting the following:**

Campaign surplus

147.5(1) On or before March 1 immediately following a general election or, in the case of a by-election, within 120 days after the by-election, if a candidate's disclosure statement shows a surplus exceeding \$500, the candidate shall pay the excess amount to the municipality.

- (b) in subsection (3) by striking out "person" and substituting "candidate";**
- (c) in subsection (4)**
- (i) by striking out "person" wherever it occurs and substituting "candidate";**
- (ii) by striking out "fails to file" and substituting "does not file".**

(9) Section 147.8(4) is repealed and the following is substituted:

(4) A candidate may apply to the Court under this section and name the municipality as the respondent.

(10) The following is added after section 147.91:

Application

147.92(1) Sections 147.5, 147.6, 147.7(2) and (3) and 147.91(b) apply to campaign funds on or after December 1, 2011.

(2) Subsection (1) is deemed to have come into force on February 3, 2010.

(8) Section 147.5 presently reads in part:

147.5(1) On or before March 1 immediately following a general election or, in the case of a by-election, on or before 120 days following the by-election, if a candidate's disclosure statement shows a surplus exceeding \$500, the candidate shall pay the excess amount to the municipality.

(2) The municipality shall hold any money received under subsection (1) in trust for the candidate at a financial institution.

(3) If the person in respect of whom the money is held under subsection (2) files nomination papers to be a candidate in the next general election or in a by-election called before that time, the municipality shall pay the money and interest calculated at the rate prescribed by the Lieutenant Governor in Council to the candidate for use in that election.

(4) If the person in respect of whom money is held in trust under subsection (2) fails to file nomination papers before the next general election, the person shall, within 6 months of the date of the election, direct the municipality to donate the money and interest on that money calculated at the rate prescribed by the Lieutenant Governor in Council to a registered charitable organization as defined in the Income Tax Act (Canada).

(9) Section 147.8(4) presently reads:

(4) An application to the Court under this section is to be made by originating notice naming the municipality as the respondent.

(10) Application.

**Local Authorities Election (Finance
and Contribution Disclosure)
Amendment Act, 2009**

Amends SA 2009 c10

2(1) The *Local Authorities Election (Finance and Contribution Disclosure) Amendment Act, 2009* is amended by this section.

(2) Section 3 is amended

(a) by repealing the new section 147.2(2);

(b) in the new section 147.3(1)

(i) by repealing clause (a) and substituting the following:

(a) a campaign account in the name of the candidate's election campaign is opened at a financial institution for the purposes of the election campaign as soon as possible after

(i) the total amount of campaign contributions from any person, corporation, trade union or employee organization first exceeds \$5000 in the aggregate, or

(ii) the total amount of campaign contributions from any person, corporation, trade union or employee organization in combination with any money paid by the candidate out of the candidate's own funds first exceeds \$5000 in the aggregate;

(ii) in clause (b) by adding "if a campaign account has been opened in accordance with clause (a)," before "all contributions";

(c) by repealing the new section 147.9.

**Local Authorities Election (Finance
and Contribution Disclosure)
Amendment Act, 2009**

2(1) Amends chapter 10 of the Statutes of Alberta, 2009.

(2) The new sections 147.2(2), 147.3(1) and 147.9 presently read in part:

147.2(2) Any money paid by a candidate out of the candidate's own funds for the purposes of the candidate's campaign is a campaign contribution for the purposes of this Part.

147.3(1) A candidate shall ensure that

(a) a campaign account is opened at a financial institution for the purposes of the election campaign and in the name of the candidate's election campaign;

(b) all contributions of money are deposited into the campaign account;

147.9 In addition to any other penalty under this Act, if a person who is declared elected as a councillor

(a) fails to file a disclosure statement required under section 147.4 before the end of the late filing period provided under section 147.7, and

(b) has not been relieved from this obligation by a court order under section 147.8,

then the person ceases to hold office as a councillor, and the seat is deemed to be vacant.

(3) The following is added after section 3:

Amends RSA 2000 cM-26

3.1(1) The *Municipal Government Act* is amended by this section.

(2) Section 174(1) is amended by adding the following after clause (b):

(b.1) the councillor

- (i) fails to file a disclosure statement as required under section 147.4 of the *Local Authorities Election Act* before the end of the late filing period provided under section 147.7 of the *Local Authorities Election Act*, and
- (ii) has not been relieved from the obligation to file a disclosure statement by a court order under section 147.8 of the *Local Authorities Election Act*;

(3) Amends chapter M-26 of the Revised Statutes of Alberta 2000. Section 174(1) presently reads in part:

174(1) A councillor is disqualified from council if

- (a) when the councillor was nominated, the councillor was not eligible for nomination as a candidate under the Local Authorities Election Act;*
- (b) the councillor ceases to be eligible for nomination as a candidate under the Local Authorities Election Act;*

