

Local Elections

Municipal Affairs Statutes Amendment Act, 2024 (Bill 20)

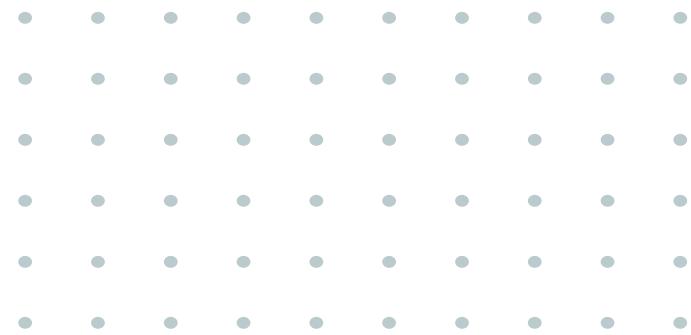
City of Chestermere – Privileged
November 12, 2024



Presented by
BROWNLEE LLP
Barristers & Solicitors

Bill Status

- Bill 20 introduces significant changes to the *Local Authorities Election Act* in Alberta.
 - First Reading: April 25, 2024
 - Second Reading: May 28, 2024
 - Committee of the Whole: May 28, 2024
 - Third Reading: May 29, 2024
 - Royal Assent: May 30, 2024
 - Proclamation: October 31, 2024
 - [except assessment and property tax provisions (ss 2(24)] and (25) come into force on January 1, 2025



Amended Statutes

- Local Authorities Election Act, RSA 2000, c L-21
- Municipal Government Act, RSA 2000, c M-26
- Referendum Act, RSA 2000, c R-8.4



Two Key Objectives

MLA Schow introduced Bill 20.

This legislation seeks to modify two key pieces of legislation for Alberta municipalities, the Municipal Government Act and the Local Authorities Election Act. In addition to making some changes that will help to have more homes built in Alberta, these amendments **increase the transparency and accountability of both local governments and local elections**. They will also **modify provincial oversight of municipalities** to strengthen cabinet's ability, if absolutely necessary, to address situations where municipal decisions are not aligning with the public interest. Finally, there are also several administrative amendments that eliminate redundancies and clarify the legislation.



Changes to Local Authorities Election Act

Changes to Local Authorities Election Act

- Candidate Qualifications
- Criminal Record Checks
- Returning Officer (RO)
- Protection of Personal Information
- Register of Electors
- Contributions
- Voter Identification
- Special Ballot Voting Eligibility
- Vote Recounts



Candidate Qualifications

- On nomination day, the person
 - Is eligible to vote in that election
 - Has been a resident of the local jurisdiction for at least 6 consecutive months preceding nomination day.
 - Ineligible or disqualified:
 - Auditor of local jurisdiction
 - An employee of local jurisdiction or Office of Ombudsman unless on a leave of absence
 - Tax indebtedness of more than \$50 to the municipality, excluding current taxes and tax arrears subject to a consolidation agreement.
 - Indebtedness of \$500 or more and in default for more than 90 days
 - Convicted, within previous 10 years, of an offence under LAEA, Election Act, Elections Finances and Contributions Act or Canada Elections Act, CCC offences of municipal corruption, influencing a municipal official or appointments, or selling or purchasing office
 - Failure to file campaign disclosure statements
 - On or after nomination, is convicted of an offence punishable by imprisonment for 5 or more years or uses or expends a contribution in contravention of s 147.23.



Criminal Record Checks

Local jurisdictions may require candidates to submit criminal record checks.

21.1 An elected authority, by a bylaw passed prior to December 31 of the year before a year in which a general election is to be held, may require a person seeking to be nominated as a candidate to provide a criminal record check.

An RO shall not accept a nomination for filing unless the criminal record check, if required, is submitted with the nomination (s. 28).

Action Item:

To implement for a 2025 municipal election, by December 31, 2024, council must pass a bylaw requiring a person seeking to be a nominated candidate to provide a criminal record check.



Returning Officer (RO)

- Appoint a RO and substitute RO by June 30 of the election year.
- Substitute RO acts as RO if RO is capable of performing RO duties due to illness, absence or other incapacity.
- Disqualified people:
 - A municipal candidate for the local jurisdiction
 - The candidate's spouse, adult interdependent partner, child, parent or sibling.



Standard & Duties of RO

- Be independent and impartial when performing RO duties.
- Duties of RO:
 - (a) appoint a presiding deputy, deputies, constables and other persons as required;
 - (b) establish voting stations;
 - (c) designate at least 2 deputies to work at each voting station, one of whom shall be designated as the presiding deputy, who is to be in charge of the voting station;
 - (d) provide for the supply and delivery of ballots, ballot boxes, instructions to electors and other necessary supplies to all voting stations;
 - (e) give notice of nominations;
 - (f) receive and process nominations;
 - (g) declare acclamations;
 - (h) give notice of elections;
 - (i) do all things necessary for the conduct of an election.



Protection of Personal Information

- A filed nomination paper made available to the public must redact and not disclose:
 - Candidate's mailing address
 - Candidate's official agent's mailing address
 - Any personal information that in the opinion of the RO, deputy or secretary would compromise the candidate's personal safety.
- The criminal record check must not be withheld or redacted, except for the mailing address of the candidate and official agent.



Register of Electors

Local Authorities Election Act	Bill 20
<u>Discretionary</u> Permanent electors register 49(1) Subject to this section, a municipality <u>may</u> , by bylaw, (a) direct the secretary to prepare a permanent electors register of residents in the municipality who are entitled to vote in elections,	<u>Mandatory</u> Permanent electors register 49(1) Subject to this section, a municipality <u>must</u> prepare a permanent electors register of residents in the municipality who are eligible to vote that is compiled and revised primarily using information received from the Chief Electoral Officer.
	<ul style="list-style-type: none">Information will be the most current provincial register of electors from Elections Alberta.



Contributions

Local Authorities Election Act	Bill 20
<ul style="list-style-type: none"> Third-Party Advertisers: \$30,000 donation limit 	<p>Third-Party Advertisers: \$5,000 donation limit per calendar year.</p>
<ul style="list-style-type: none"> Only individuals ordinarily resident in Alberta. Unions and corporations are prohibited from making contributions. 	<p>Alberta-based unions and corporations may make contributions to local candidates.</p>
<ul style="list-style-type: none"> Contribution Limits: <ul style="list-style-type: none"> Outside Campaign Period: candidate can't receive more than \$5000 in aggregate per year Campaign Period: \$5000 to any candidate for election as a councillor Candidate: \$10,000 per year 	<p>Contribution Limits:</p> <ul style="list-style-type: none"> \$5000 in <u>aggregate</u> to all councillor candidates in the municipality per calendar year during the Campaign Period. Onus on contributor to ensure they do not overcontribute. Candidate: \$10,000 during Campaign Period. No contributions outside Campaign Period.
<ul style="list-style-type: none"> Contribution Periods: <ul style="list-style-type: none"> “Campaign Period” – January 1 to December 31 of the year of the general election. 	<ul style="list-style-type: none"> Contribution Periods: <ul style="list-style-type: none"> “Campaign Period” – January 1 immediately following a general election to December 31 following the next general election.
<ul style="list-style-type: none"> Acceptance of Contributions and Expenses <ul style="list-style-type: none"> Need to be a nominated candidate Exception: \$5000 aggregate outside Campaign Period and Candidate contribution of \$10,000 or less. 	<ul style="list-style-type: none"> Acceptance of Contributions and Expenses <ul style="list-style-type: none"> No one can accept a contribution or incur a campaign expense unless they give notice. Person who intends to be nominated or has been nominated.



Expense Limits Regulation, Alta Reg 171/2024

- Expense limits – candidates for councillor
 - No candidate for election as a councillor and no chief financial officer for a candidate for an election shall incur a campaign expense that exceed the following limits:
 - During the year before the general election year, the greater of:
 - \$10,000, and
 - $\$0.50 \times (A)$ population of municipality at start of campaign period (if wards) divided by (B) number of wards.
 - During the general election year, the greater of:
 - \$20,000, and
 - $\$1.00 \times (A)$ population of municipality at start of campaign period (if wards) divided by (B) number of wards.
 - No campaign expenses can be incurred in first 2 years of a campaign period of a general election.



Expense Limits Regulation, Alta Reg 171/2024

- Expense limits – local political parties
 - During the year before the general election year:
 - $\$0.50 \times (A)$ population of municipality at start of campaign period (if wards) divided by (B) number of wards.
 - During the general election year, the greater of:
 - $\$1.00 \times (A)$ population of municipality at start of campaign period (if wards) divided by (B) number of wards.
 - No campaign expenses can be incurred in first 2 years of a campaign period of a general election.



Expense Limits Regulation, Alta Reg 171/2024

- Expense limits – slates
 - Shared campaign expenses on behalf of its candidates shall be allocated equally among those candidates and included in the campaign expenses of those candidates.
 - No campaign expenses can be incurred in first 2 years of a campaign period of a general election.



Expense Limits Regulation, Alta Reg 171/2024

- Expense limits – third parties
 - No registered third party shall incur election advertising expenses in the election advertising period that exceed $\$0.50 \times$ population in the area of local jurisdiction at start of the election advertising period.
 - Election advertising expenses can only be incurred in the election advertising period.
 - “election advertising period” means
 - For a general election, May 1 of the general election year to election day.
 - For a by-election, day after the resolution or bylaw setting the election day to the election day.
 - “election advertising” means
 - Canvassing for the benefit of a candidate or to promote or oppose an issue that is the subject of a vote on a bylaw or question, and
 - Organizing events where the primary purpose of the event is to promote or oppose a candidate or a position on an issue that is the subject of a vote on a bylaw or question.



Voter Identification (s 53)

Local Authorities Election Act	Bill 20
<ol style="list-style-type: none">1. If a bylaw has been passed by providing the required types and number of identification specified in the bylaw.2. By producing one of the following:<ol style="list-style-type: none">i. A piece of government-issued identification (federal, provincial or local) that includes a photograph, name and residential address.ii. A piece of identification authorized by the Chief Electoral Officer under the Election Act that confirms the person's name and current address.iii. Other acceptable identification approved by the Minister.	<ol style="list-style-type: none">1. Repealed – no bylaw may set out ID requirements2. Added<ol style="list-style-type: none">i. Name on the permanent electors register as proof of identification.3. Section 54 repealed – A candidate, official agent or scrutineer no longer has ability to object to an elector.
Vouching (s 53(4)) – another elector can validate a person's identity, age and residential address.	Vouching - another elector can only vouch for someone's address but not their identity or age. In effect, electors are required to provide identification at the polling station.



Eligibility for Special Ballot Voting

Local Authorities Election Act	Bill 20
<p>An elector may apply for a special ballot if they are unable to vote at an advance vote or on election day due to:</p> <ul style="list-style-type: none">• Physical disability• Absence from the local jurisdiction• Serving as a returning officer, deputy returning officer, substitute returning officer, constable, candidate, official agent, or scrutineer at a different voting station than their place of residence.	<ul style="list-style-type: none">• Expands the availability of voting by special ballot.• An elector who is unable to vote at an advance vote or the voting station on election day may apply to vote by special ballot.



No Electronic Tabulators

Local Authorities Election Act	Bill 20
Alternative voting equipment	Alternative voting equipment prohibited
<p>84(1) An elected authority may by bylaw provide for the taking of the votes of electors by means of voting machines, vote recorders or automated voting systems.</p> <ul style="list-style-type: none">• Advantages:<ul style="list-style-type: none">• Speed• Potential for greater accuracy• Efficiency for large elections• Cost-effective for large elections• Concerns:<ul style="list-style-type: none">• Lack of transparency - Scrutineers' ability to supervise vote counting and object to any ballot.• Accuracy• Hacking or tampering• Software errors• Machine calibration• Voter confidence	<p>84 A local jurisdiction shall not provide for the taking or counting of votes by means of voting machines, vote recorders, automated voting systems or tabulators.</p>

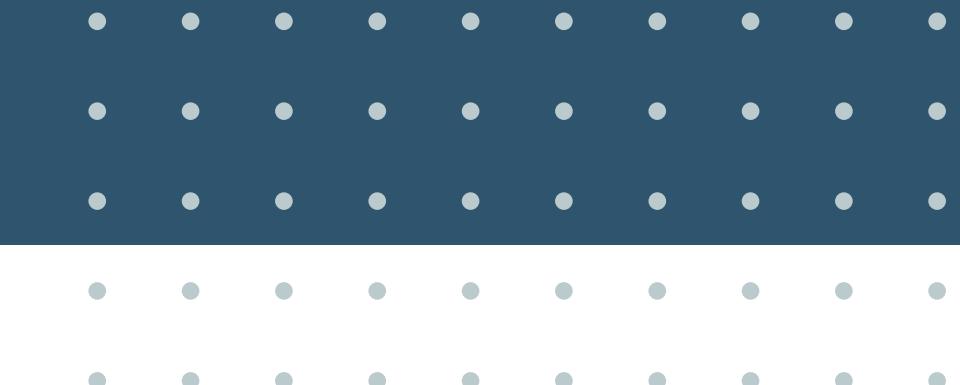
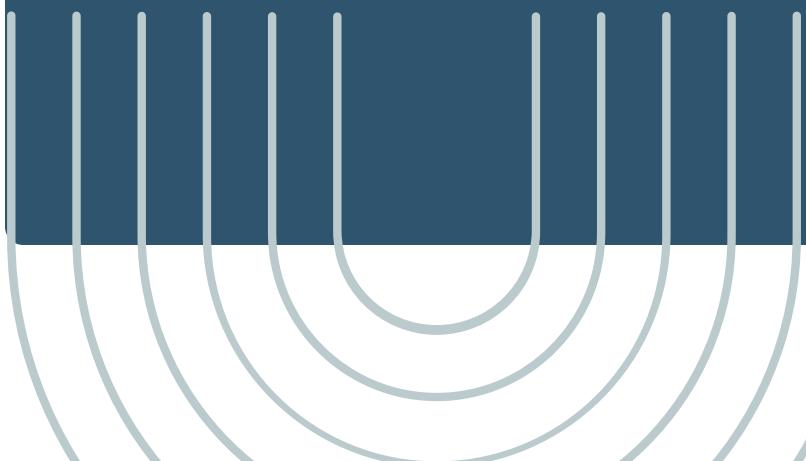


Recount of Votes

Local Authorities Election Act	Bill 20
<p>Recount by Returning Officer (discretionary):</p> <ul style="list-style-type: none">• A recount may be conducted if: <p>1. Reasonable Grounds: A candidate, agent, or scrutineer provides reasonable grounds to believe the vote count is inaccurate.</p> <p>2. Ballots Affecting the Outcome: The number of objected or rejected ballots could change the election result.</p> <p>3. Administrative/Technical Error: The returning officer suspects an error in the vote count due to administrative or technical issues.</p>	<p>Automatic Recount by Returning Officer:</p> <ul style="list-style-type: none">• A recount must be conducted if an application is received and: <p>1. Single Office Election:</p> <ul style="list-style-type: none">• If the vote difference between the top two candidates is within 0.5% of the total valid ballots. <p>2. Multiple Office Election:</p> <ul style="list-style-type: none">• If the vote difference between the candidate with the lowest number of votes to win and the candidate with the highest number of votes not elected is within 0.5% of total valid ballots.



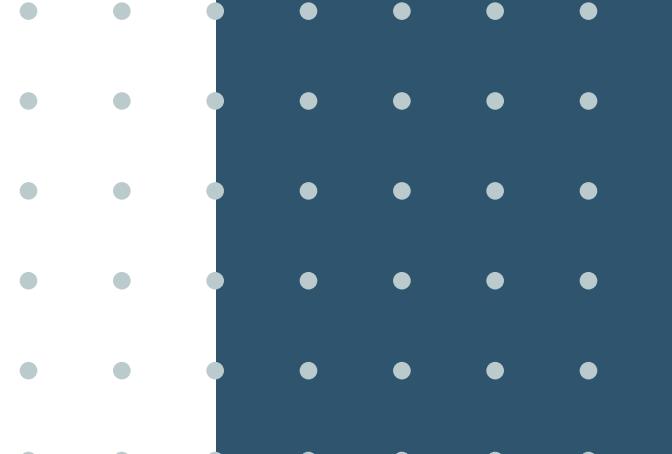
Changes to Municipal Government Act



Changes to Municipal Government Act

- Mandatory Orientation
- Right to Recuse
- Private Interest/Conflict of Interest
- New Cabinet Power – Amend or Repeal Bylaws
- New Cabinet Power – Take Action





Mandatory Orientation

- Under s 201.1, a councillor must attend orientation training.
- Prior to this, the municipality only had to offer orientation training.
- Timing: (1) on or before day of the first organizational meeting and (2) on or before day of the first regularly scheduled council meeting.
- Topics must include:
 - a. Role of municipalities in Alberta
 - b. Municipal organization and function
 - c. Council and councillors' roles and responsibilities
 - d. Code of Conduct
 - e. CAO and staff's roles and responsibilities
 - f. Key municipal plans, policies and projects
 - g. Budgeting and financial disclosure
 - h. Public participation
 - i. Any other topic prescribed by the regulations



Right to Recuse - MGA

- Allows councillors to recuse themselves for real or perceived conflicts of interest.
- This decision is not subject to third-party review.
- Prior to this, under section 170 of the MGA, a councillor could only recuse themselves if they had a pecuniary interest.
- This has been expanded to include “private interest”.
 - Private interest generally refers to a personal benefit or advantage that the elected official might gain from their position of power or authority such as
 - Financial benefit: monetary gain, property, or other assets.
 - Non-financial benefit: career advancement, personal favours or preferential treatment



“Private Interest”

“Private Interest” is defined by what it does not include.

(b.1) “private interest” does not include the following:

- (i) an interest in a matter that
 - (A) is of general application,
 - (B) affects a councillor as one of a broad class of the public, or
 - (C) concerns the remuneration and benefits of a councillor;
- (ii) an interest that is trivial;



Cabinet Powers - Bylaws

- Cabinet would have the ability to amend or repeal a municipal bylaw.

Direction to amend or repeal bylaws

603.01 The Lieutenant Governor in Council may by order direct a municipality, with or without conditions, to amend or repeal a bylaw that in the opinion of the Lieutenant Governor in Council

- (a) exceeds the scope of the purposes of a municipality set out in section 3,
- (b) exceeds the authority of the municipality to pass a bylaw under this or any other Act,
- (c) contravenes the Constitution of Canada,
- (d) conflicts or is inconsistent with this Act or another enactment of Alberta, or
- (e) is contrary to a policy of the Government, unless the municipality obtains the prior consent of the Government to pass that bylaw.

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Cabinet Power – Take Action

Requirement to take action

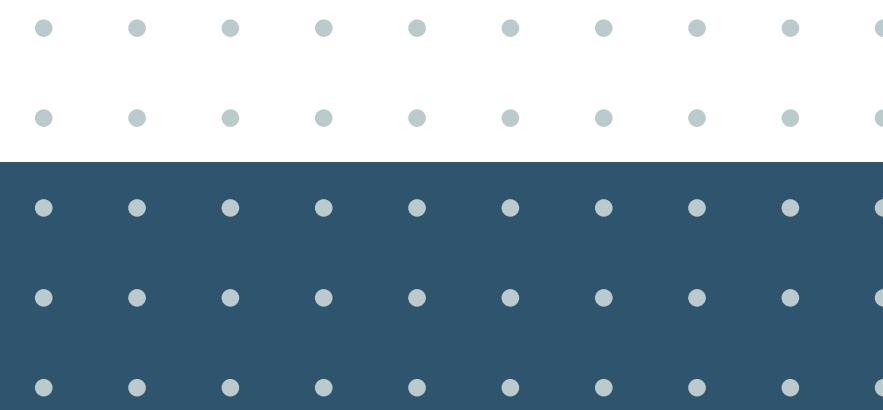
615.11(1) The Lieutenant Governor in Council, by order, may require a council to take any action that the Lieutenant Governor in Council considers necessary in the circumstances to protect public safety or health.

(2) If a council does not carry out an order under subsection (1) to the satisfaction of the Lieutenant Governor in Council, the Lieutenant Governor in Council may direct the Minister to make

- (a) one or more orders referred to in section 574(2)(a) to (g), and
- (b) an order dismissing the council or any member of it.

(3) Before making an order under subsection (2), the Minister must give the municipal authority notice of the intended order and at least 14 days in which to respond.





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