

# Municipal Affairs

## Interpretation Bulletin

Number: 01/13

Date: March 2013

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### **Subject: *Local Authorities Election Act Amendment***

**Amendments to the *Local Authorities Election Act (LAEA)* were given Royal Assent on December 10, 2012. As the next municipal election is coming up shortly, Municipal Affairs has prepared this bulletin to provide basic advisory information on the new and revised areas of the *LAEA*. Please call Advisory Services regarding any questions using the contact information below.**

#### **Term of Office**

The term of office for local elected officials has been increased to four years. Previously, municipal elections were held every three years. The 2013 municipal general election will be held on October 21, 2013. The following general municipal election will be held on October 16, 2017.

Summer village general elections will continue to be held in the summer of the general election year as provided under Section 12.

#### **Voter Identification and Eligibility**

Section 53 now includes a requirement for a person to provide proof of identity and current residence in order to vote, unless the elected authority prepares a list of electors and the person's name appears on the list. The section sets out a basic requirement consisting of a single piece of identification that includes the person's name and current address.

Elected authorities have the option to, by bylaw, expand on the types of identification that the returning officer can accept for purposes of satisfying the basic requirement.

The elected authority can also increase the number of pieces of identification required for purposes of providing additional verification of the person's name, current address, or age and can specify the types of identification that will be accepted for that purpose.

In the absence of a list of electors, a person is also still required to make a statement in the presence of an officer at the voting station in the prescribed form (Form 8) in order to be permitted to vote.

The basic proof of identity and current residence requirement set out in Section 53 can be satisfied by:

- identification issued by a Canadian government (federal, provincial, or local) which contains a photograph of the elector and their name and address; or
- identification authorized by the Chief Electoral Officer under the Election Act to establish an elector's name and current address; or
- any additional types of identification documents that are stipulated by an elected authority through a bylaw passed at least six months (for 2013 only, the time is reduced to four months, and for summer villages, two months) in advance of the nomination day for a municipal election.

It is important that voters be advised of the identification requirements well in advance of the election so they can be adequately prepared with the appropriate documentation on election day.

The logo for the province of Alberta, featuring the word "Alberta" in a stylized, cursive script font, followed by a small square icon containing a stylized 'A'.

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Additional information about proof of elector eligibility is provided in the Question and Answer section that begins on page 3.

### **Nomination Requirements**

Section 28(3.01) was added to clarify the responsibility of the returning officers if a nomination form is not signed by the required number of electors. If the nomination form is not signed by at least the minimum number of electors, the returning officer shall not accept it.

### **Campaign Deficits**

Section 147.4(1.1)(b) was added to require municipal candidates to clear any campaign deficit if they are not running in the next general election. The change will apply to candidates who have carried over a campaign deficit from a previous election if they do not run in the October 2013 general election.

### **Campaign Surplus**

Candidates were previously required to donate surplus campaign funds exceeding \$500 to a charity or the municipality if they do not file nomination papers before the next general election. This has been changed to remove the \$500 exemption. The requirement will apply to surplus funds carried over from a previous election if the candidate does not run in the 2013 general election.

### **Other Changes**

A number of other changes were made to clarify previous provisions in the *LAEA* or resolve technical concerns.

- Official agents are no longer required to subscribe to the official oath.
- Section 22 has been revised to clarify that an employee who wishes to be nominated as a candidate is entitled to a leave of absence without pay.
- Section 54(1.1) has been added to clarify that an objection to a person who makes a statement must be made at the time the person makes the statement.
- Section 68.1(1.1) has been added to provide for the replacement of an official agent.
- Section 69(5) has been modified to clarify that the designated place or places at a voting station where a candidate, an official agent or a scrutineer may observe the election procedure must allow them to observe any person making a statement.
- Section 77.1 has been modified to eliminate the advance notification and period to pass the resolution requirement for special ballot resolutions.
- Section 147.3(1)(a) has been modified to allow a deposit account at a financial institution to be opened in the name of the candidate.

### ***LAEA* Provisions Not Yet In Effect**

One of the new provisions in the *LAEA* does not apply to the current campaign period ending December 31, 2013, but will apply to future campaign periods. Beginning January 1, 2014, potential candidates will be required to register with the municipality before they accept campaign contributions. The form of the registration process will be at the discretion of each municipality.

The enforcement of campaign reporting requirements has been strengthened by adding a new provision that a potential candidate will not be eligible for nomination if they have not met the campaign reporting requirements from a previous election. This provision will not be in effect during the current campaign period ending December 31, 2013, but will apply to reporting requirements that apply to campaign periods beginning on or after January 1, 2014.

A number of sections in the *LAEA* were previously deferred and did not apply until December 1, 2015. These sections continue to be deferred until December 1, 2015 and do not apply to campaign finances in the current campaign period ending December 31, 2013. These sections deal with the holding of surplus campaign funds between elections and related administrative provisions (Section 147.5, 147.7(2), 147.7(3) and 147.91(b)).

## **Proof of Elector Eligibility under *Local Authorities Election Act (LAEA)* Section 53**

### **Question and Answer**

#### **1. What kinds of elector identification are valid for proving eligibility to vote?**

- For an elected authority that does not prepare a list of electors, or where the person's name does not appear on the list of electors, Section 53(1)(b)(i) establishes the general basic requirement for verification of the person's identity and current residence. Under this basic requirement, the voter must produce (A) one piece of photo identification with name and address that is issued by a Canadian government (federal, provincial, local, or an agency thereof), or (B) one piece of identification authorized by the Chief Electoral Officer under the Election Act with name and address.
- Types of government-issued identification allowed under (A) must show the name, address and a photo of the elector and so examples of appropriate ID include:
  - Operator/Driver's license
  - Government photo identification card (for non-drivers)
- Types of Chief Electoral Officer-approved identification allowed under (B) must show the name and address of the elector and so examples of appropriate ID include:
  - Bank/Credit card statement or personal cheque
  - Correspondence issued by a school, college or university
  - Government cheque or cheque stub
  - Income/property tax assessment notice
  - Insurance policy or coverage card
  - Letter from a public curator, public guardian or public trustee
  - One of the following, issued by the responsible authority of a shelter or soup kitchen: Attestation of residence, letter of stay, admission form or statement of benefits
  - Pension Plan statement of benefits, contributions or participation
  - Prescription bottle insert
  - Residential lease or mortgage statement
  - Statement of government benefits, e.g. employment insurance, old-age security, social assistance, disability support or child tax benefit
  - Utility bill, e.g. telephone, public utilities commission, television, hydro, gas or water
  - Vehicle ownership or insurance certificate

- 2. The listing of identification authorized by the Chief Electoral Officer says that two pieces of identification are required. Does this mean that two pieces of identification are required under Section 53(1)(b)(i)(B)?**
- No, the listing authorized by the Chief Electoral Officer is referenced in Section 53 for purposes of establishing the **types** of identification that can be accepted, but not the number. The general basic requirement for municipal elections as set out in Section 53 is for a single piece of identification. The two-piece identification referred to in the Chief Electoral Officer listing reflects the number of pieces of identification required for provincial elections, but this does not apply to municipal elections.
- 3. If the voter has signed the Voting Register (Form 8), do they still have to provide identification?**
- Yes, identification is required in addition to the statement.
- 4. Can an elected authority change the kinds of identification to be used by voters to prove eligibility, besides those mentioned in the LAEA, or change the requirement?**
- An elected authority can, at their option:
    - expand on the list of types of identification that the returning officer can accept for purposes of the basic identification requirement set out in Section 53(1)(b)(i) (A) and (B); or
    - require more than the basic requirement of one piece of identification as set out in Section 53(1)(b)(i) (A) and (B); or
    - specify the types of identification that the returning officer can accept for purposes of the additional identification that the elected authority requires to verify name and current address, or age of an elector.
- 5. How does the elected authority modify the voter identification requirements?**
- The elected authority may pass a bylaw (as described in Section 53(3) to (7)) six months in advance of the election. The bylaw time period is modified for 2013 elections - see next question.
- 6. Will elected authorities have sufficient time to pass a bylaw regarding voter identification requirements as required by Section 53(3) of the Act?**
- Elected authorities may pass a voter identification bylaw six months in advance of nomination day under Section 53(3). Due to the limited time period between proclamation of the amendments to the *LAEA* and the date six months in advance of nomination day, the Minister of Municipal Affairs has approved a decreased bylaw time requirement for the 2013 municipal general elections.
  - All municipalities, with the exception of summer villages, may pass a voter identification bylaw four months in advance of nomination day.
  - Summer villages may pass a voter identification bylaw two months in advance of nomination day.
- 7. Can the elected authority require more than one piece of identification that establishes the person's identity and current residence?**
- Yes, under Section 53(3) of the *LAEA*, an elected authority may pass a bylaw authorizing additional forms of documentation to establish the elector's name, current address, and if required, age.
  - The bylaw would need to establish the number of pieces of identification that are required in addition to the basic requirement set out in Section 53(1)(b)(i).
  - The bylaw would also need to establish what types of identification will be accepted for purposes of the additional requirement.

- In establishing additional identification requirements over and above the basic requirement in Section (1)(b)(i), the elected authority should ensure that the additional requirements can be reasonably met by eligible voters.

**8. Can the elected authority require identification to establish the person's age?**

- Yes, under Section 53(5)(b) of the *LAEA*, an elected authority may pass a bylaw authorizing additional forms of documentation to establish the elector's age.
- The bylaw would need to establish the number of pieces of identification that are required to verify age.
- The bylaw would also need to establish what types of identification will be accepted for purposes of the age verification requirement.
- In order to ensure that eligible voters can reasonably meet an age verification requirement, it is recommended that the local bylaw to establish the types of identification that will be accepted for age verification include, at a minimum, the types of identification referred to in Section 53(1)(b)(i).

**9. Can the local bylaw restrict or remove the types of identification that can be accepted for purposes of the basic identification requirement?**

- No, the elected authority can expand on the types of identification that can be accepted for purposes of verifying the person's name and address, but cannot remove the basic requirement set out in Section 53(1)(b)(i).
- The returning officer must accept the types of identification referred to in Section 53(1)(b)(i)(A) and (B) for purposes of satisfying the basic identification requirement in Section 53(1)(b)(i). **Note: this requirement must be explicitly provided for in the local bylaw.** (Section 53(6))

**10. If the document that verifies the person's address is in the name of the person's spouse or immediate family member, can it be accepted as verification of current residence together with a second piece of identification that establishes the voter's identity?**

- No, not unless the elected authority includes this type of identification in their local bylaw as an acceptable type of identification that the returning officer can accept for purposes of the basic identification requirement set out in Section 53(1)(b)(i).
- An exception to this requirement is made where the person's eligibility to vote in a summer village election is based on property ownership as set out in *LAEA* Section 12(b), as discussed in the following question.

**11. How do the identification requirements apply to summer village property owners who wish to vote in a summer village election under the provisions of *LAEA* Section 12(b)?**

- Under *LAEA* Section 12(b), the person's eligibility to vote in a summer village election may be based on property ownership, and not necessarily on residence as set out in Section 47. Therefore, in the context of summer village property owners who are not resident in the summer village, the requirements of Section 53 apply to the extent that the person must produce proof of identity and proof of address in the summer village (as a property owner). This may take the form of any identification authorized by the Chief Electoral Officer under the Election Act that established the person's name and summer village address, such as a property tax assessment notice, insurance policy or coverage card, mortgage statement, or utility bill.
- Summer villages may wish to consider expanding, through a bylaw, on the types of identification that will be accepted for purposes of verifying name and address based on in the documents that are typically held by their local property owners.

- Where the person's eligibility to vote in a summer village election is based on their relationship as a spouse or adult interdependent partner of a property owner as provided in LAEA Section 12(b)(iii) and their spouse or interdependent partner has provided verification of their summer village address, no separate verification of address is required from the person. Verification of the person's identity is still required.
- The provisions of LAEA Section 53 apply only to the verification of identity, current residence, and if the elected authority chooses, age. As a result, a person does not have to provide proof of property ownership to vote in a summer village election; only proof of their address in the summer village.

**12. If the voter's identification shows a post office box number as the address instead of a residential or legal address, can this be accepted as verification of current residence?**

- Yes, a mailing address can be accepted as verification of current address if it is in reasonable proximity to the voting jurisdiction.
- An elected authority could, by bylaw, require additional verification or a combination of verification to establish the person's specific current address.

**13. What kind of ID is necessary for citizens who reside in an institution and lack access to personal items such as identification cards?**

- Elected authorities may pass a bylaw allowing additional types of identification for electors who may not have access to government-issued photo identification or to the identification listed in the Chief Electoral Officer-approved listing on the Elections Alberta website.
- For example, the local bylaw could expand the types of identification that could be accepted to include correspondence issued by a hospital, auxiliary hospital, nursing home or seniors' or special care accommodation facility attesting residency, such as a letter of stay, admission form, or patient profile sheet that includes the name and current address of the person.

**14. How do the voter identification requirements affect students?**

- If the person is a student who meets the conditions set out in Section 48(1)(d)(i),(ii), and (iii), they are deemed to reside with those family members at their permanent address. The basic requirement to verify current residence will require the student to provide proof of residence at the address of the permanent residence with their family members.
- If the student has left their family's area with the intention of making their residence elsewhere as provided for in Section 48(1)(e), then the normal requirement set out in Section 53(1)(b)(i) to provide proof of their current residence will apply.

**15. Is there any limitation to what an elected authority can include in its voter ID bylaw as valid types of proof of name, address and age?**

- There is no limitation on the additional types of ID that can be accepted under a local bylaw. However, Municipal Affairs recommends that municipalities specify all types of valid identification documentation in the bylaw, rather than leaving it to the discretion of the Deputy Returning Officer (DRO) at the polling station. This approach limits the responsibility placed on the DRO, particularly if the DRO's ruling on a piece of identification is challenged.