

2009 Bill 203

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 203

**LOCAL AUTHORITIES ELECTION
(FINANCE AND CONTRIBUTION DISCLOSURE)
AMENDMENT ACT, 2009**

MR. JOHNSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 203
Mr. Johnson

BILL 203

2009

LOCAL AUTHORITIES ELECTION (FINANCE AND CONTRIBUTION DISCLOSURE) AMENDMENT ACT, 2009

(Assented to _____, 2009)

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

Amends RSA 2000 cL-21

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

2 Section 118 is amended

- (a) in subsection (1) by striking out** “The following expenses”
and substituting “In any election under this Act, the
following expenses”;
- (b) in subsection (2) by striking out** “An elected authority”
and substituting “With respect to an election of a school
board trustee under this Act, an elected authority”.

Explanatory Notes

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

2 Section 118 presently reads:

118(1) The following expenses shall be held to be lawfully incurred and the payment of them is not a contravention of this Act:

- (a) the actual personal expenses of the candidate;*
- (b) the cost of acquiring premises, accommodation, goods or services used for proper election campaign purposes;*
- (c) bona fide payments for the fair cost of printing and advertising;*
- (d) reasonable and ordinary payment to any person for the hire of transportation used*
 - (i) by a candidate or speakers in travelling to and from public meetings, or*
 - (ii) by any person in connection with and for the proper purposes of an election.*

(2) An elected authority may, by a bylaw passed prior to April 15 of a year in which a general election is held require that candidates prepare

3 The following is added after section 147:

**Part 5.1
Municipal Election Finance and
Contribution Disclosure**

Definitions

147.01 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;
- (b) “campaign expense” means any expense referred to in section 118(1);
- (c) “campaign period” means

and disclose to the public statements of all their campaign contributions and campaign expenses and may prescribe how campaign contributions not used for campaign expenses must be used.

(2.1) If a bylaw is passed under subsection (2), the elected authority may require that the statements of campaign contributions and campaign expenses be audited in accordance with generally accepted auditing standards.

(2.2) If a bylaw is passed under subsection (2), a person eligible to vote in the election may request to examine the statements of campaign contributions and campaign expenses during regular business hours and in the presence of the returning officer, deputy or secretary.

(3) A bylaw passed under subsection (2)

(a) shall define “campaign contributions” and “campaign expenses”, and

(b) may prescribe forms

for purposes of the bylaw.

(4) A person who contravenes a bylaw passed under this section is guilty of an offence and liable to a penalty of not more than \$1000, and on conviction the penalty enures to the benefit of the local jurisdiction in respect of which the election was conducted.

3 New Part addressing contribution limits and disclosure of campaign expenses and contributions.

- (i) for a candidate in a general election, the period of time from January 1 immediately following a general election to December 31 immediately following the next general election;
- (ii) for a candidate in a by-election, the period of time from January 1 immediately following a general election to 60 days immediately following the by-election;
- (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;
- (e) “employee organization” means any organization other than a trade union that bargains collectively for any employees in Alberta, and for the purposes of this Part all branches in Alberta of an employee organization are deemed to be one organization;
- (f) “person” includes a candidate, any other individual and an organization other than a corporation, employee organization or trade union;
- (g) “prohibited organization” means
 - (i) a municipality,
 - (ii) a corporation that is controlled by a municipality and meets the test set out in section 1(2) of the *Municipal Government Act*,
 - (iii) a non-profit organization that has received since the last general election any of the following from the municipality in which the election will be held:
 - (A) grants,
 - (B) real property, or
 - (C) personal property,
 - (iv) a Provincial corporation as defined in the *Financial Administration Act*, and includes a management body within the meaning of the *Alberta Housing Act*,
 - (v) a Metis settlement,

- (vi) a school board under the *School Act*,
 - (vii) a public post-secondary institution under the *Post-secondary Learning Act*,
 - (viii) any corporation that does not carry on business in Alberta, or
 - (ix) any organization designated by the Lieutenant Governor in Council as a prohibited organization;
- (h) “trade union” means a trade union as defined by the *Labour Relations Code*, the *Public Service Employee Relations Act* or the *Canada Labour Code* (Canada) and that holds bargaining rights for employees in Alberta, and for the purposes of this Part all locals in Alberta of a trade union are deemed to be one trade union.

Limitations on contributions

147.02(1) Campaign contributions by any person, corporation, trade union or employee organization to a candidate shall not exceed \$5000 in any campaign period.

(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.

(3) No prohibited organization, person normally resident outside Alberta or trade union or employee organization other than a trade union or employee organization as defined in this Part shall make any campaign contributions to a candidate.

(4) A corporation, trade union or employee organization that contravenes this section is guilty of an offence and liable to a fine of not more than \$10 000.

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

Duties of candidate

147.03(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;

- (c) money in the campaign account shall only be used for the payment of campaign expenses;
- (d) contributions of real property, personal property and services are valued;
- (e) receipts are issued for every contribution and obtained for every expense;
- (f) disclosure statements are filed in accordance with section 147.04;
- (g) records are kept of campaign contributions and campaign expenses and are retained by the candidate for a period of 2 years following the date on which disclosure statements were required to be filed under section 147.04;
- (h) proper direction is given to the candidate's official agent and any other person who is authorized to incur campaign expenses and accept or solicit campaign contributions on behalf of the candidate;
- (i) a campaign contribution received in contravention of this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention;
- (j) an anonymous campaign contribution or a campaign contribution not returned to the contributor under clause (i) is paid to the secretary for the municipality in which the election is held.

(2) A candidate who contravenes any of the provisions of this section is guilty of an offence and liable to a fine of not more than \$1000.

Campaign disclosure statements

147.04(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.

(2) If a candidate becomes aware that any of the information reported in the disclosure statement required under subsection (1) has changed or has not been completely or accurately disclosed, the candidate shall, within 30 days, submit a supplementary statement in the prescribed form to the municipality.

(3) The municipality must ensure that all documents filed under this section are available to the public during regular business hours.

(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.

Campaign surplus

147.05(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).

(5) If the municipality does not receive a direction under subsection (4), the money and interest on that money calculated at the rate prescribed by the Lieutenant Governor in Council become the property of the municipality.

Candidate declaration re campaign funds

147.06(1) Within 3 months following the coming into force of the *Local Authorities Election (Finance and Contribution Disclosure) Amendment Act, 2009*, a candidate shall

- (a) file with the municipality a declaration in the prescribed form outlining the total amount of campaign contributions held by the candidate, which shall include any surplus money from previous campaigns, and
- (b) if this amount exceeds \$500, pay the amount in excess of \$500 to the municipality.

(2) Section 147.05(2) to (5) applies to money held by a municipality under this section.

Late filing period/penalties

147.07(1) A candidate who contravenes section 147.04, 147.05 or 147.06 and who fails to

- (a) comply with that section within 30 days after the time period provided for in that section, and
- (b) pay the municipality a late filing fee of \$500,

is guilty of an offence and liable to a fine of not more than \$5000.

(2) If a candidate is found guilty of contravening section 147.05 or 147.06, the Court may, in addition to the penalty provided for in subsection (1), order the candidate to pay any surplus money in excess of \$500 to the municipality as soon as possible.

(3) Section 147.05(2) to (5) applies to money paid to a municipality pursuant to a court order under this section.

Effect of non-compliance in relation to disclosure statements

147.08(1) If a candidate fails to file a disclosure statement as required by section 147.04 before the end of the late filing period provided under section 147.07, the secretary shall transmit a report to that effect to council, which shall on its receipt make the report public.

(2) A candidate under subsection (1) may, within the 60-day period following the date on which the report under subsection (1) is made public, apply to the Court for relief.

(3) On hearing the application, the Court may

- (a) dispense with compliance with section 147.04, or any provision of it, if it considers that the non-compliance is due to circumstances beyond the control of the candidate and that it is not reasonably possible to comply with the section,
- (b) extend the time for compliance with section 147.04, or any provision of it, if it finds mitigating reasons for non-compliance with the section,
- (c) make any order that it considers appropriate to secure compliance with as much of section 147.04 as it considers reasonable in the circumstances, or
- (d) refuse the application.

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

(5) The decision of the Court is final and not subject to appeal.

Disqualification in relation to disclosure statements

147.09 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 147.04 before the end of the late filing period provided under section 147.07, and
- (b) has not been relieved from this obligation by a court order under section 147.08,

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

Regulations

147.10 The Lieutenant Governor in Council may make regulations

- (a) designating organizations to be prohibited organizations for the purposes of this Part;
- (b) prescribing the interest rate for the purposes of section 147.05.

4 This Act comes into force on Proclamation.

4 Coming into force.

