

# Municipal Election Finance and Contribution Disclosure



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Municipal finance and disclosure pertains to those candidates seeking election to municipal and school board offices.

Returning officers must review all definitions in the *Local Authorities Election Act* (LAEA), Part 5.1, Municipal Election Finance and Contribution Disclosure, to ensure they understand definitions and application.

## LAEA s.147.1(1)(b)

### Campaign Period

In the case of a general election, the campaign period means the period of time beginning January 1 and ending December 31 in the year of the general election.

In the case of a by-election, the campaign period refers to the time set by resolution to 60 days immediately following the by-election.

## LAEA s.147.1(1)(a)

### Allowable Election Expenses

A campaign expense means any expense incurred (including a non-monetary contribution received) by a candidate to the extent that the property or service is used to directly promote or oppose a candidate during a campaign period. The expense or non-monetary contribution includes:

- the production of advertising or promotional material;
- the distribution, broadcast or publication of advertising or promotional material in any media or by any other means during a campaign period, including by the use of a capital asset;
- the payment of remuneration and expenses to or on behalf of a person for the person's services as a chief financial officer or in any other capacity;
- securing a meeting place;
- the conduct of election surveys or other surveys or research during a campaign period; or
- the production of a review engagement required by the LAEA.

LAEA s.147.1(1)(c)

LAEA s.147.1(2)

LAEA s 147.1(4)

For the purposes of this section, the use of goods in a 2nd or subsequent election is a non-monetary contribution.

LAEA s.147.2

LAEA s. 147.2(4.1)

(4.1) Any amount paid by a candidate for campaign expenses from the candidate's own funds that is not reimbursed to the candidate from the candidate's campaign account by the end of the campaign period, including an amount referred to in subsection (4), is a contribution to the candidate's own campaign for the purposes of this Act.

## What is a Contribution?

In Part 5.1, a contribution means any money, personal property, real property or service that is provided to, or for, the benefit of a candidate's election campaign without fair market value compensation from the candidate. This does not include a service provided by an individual who voluntarily performs the services and receives no compensation, directly or indirectly, in relation to the services or time spent providing the services.

The value of a contribution, other than money, provided to a candidate is the fair market value of the contribution at the time it was provided. If a non-monetary contribution is provided for a price that is less than fair market value, the amount by which the value exceeds the price is considered a contribution for the purposes of Part 5.1.

## Limitations on Contributions

Only a person ordinarily residing in Alberta can make contributions to candidates. No individual residing outside of Alberta or prohibited organization may make a contribution to a candidate. Prohibited organizations include corporations and unincorporated organizations, including trade unions and employee organizations.

No individual residing in Alberta shall contribute in any campaign period an amount that exceeds \$5,000 to any candidate for election as a councillor and \$5,000 to any candidate for election as a school board trustee.

A candidate may contribute up to \$10,000 of the candidate's own funds that is not reimbursed to the candidate from the candidate's campaign account. Any amount paid by a candidate for campaign expenses from the candidate's own funds not reimbursed, is a contribution to the candidate's own campaign.

No candidate and no person acting on behalf of a candidate shall, directly or indirectly, solicit or accept a contribution if the candidate or person knows or ought to know that the prospective contributor is a prohibited organization or an individual residing outside Alberta.

No candidate or person acting on behalf of a candidate shall solicit or accept a contribution if the candidate or person knows or ought to know that the amount of the contribution will exceed the amounts referred to above.

**LAEA s.147.13**

**Responsibility of Contributors**

Before making a contribution, a prospective contributor is responsible for ensuring that they are not prohibited from making the contribution and are not making a contribution that is in excess of the limit prescribed by section 147.2(3).

Every candidate and every person acting on behalf of a candidate shall make every reasonable effort to advise prospective contributors of this Part relating to contributions.

**LAEA s.147.82(1) and (2)**

A prohibited organization or a person acting on its behalf that contravenes this section is guilty of an offence and is liable to a fine of not more than \$10,000.

An individual who contravenes this section is guilty of an offence and is liable to a fine of not more than \$5,000.

**LAEA s.147.22**

**Acceptance of Contributions**

Contributions cannot be accepted and expenses cannot be incurred unless the person has been nominated as a candidate.

A candidate cannot accept contributions except during a campaign period.

The provisions above do not apply to a person who accepts no more than \$5,000 in the aggregate per year in contributions outside the campaign period, or who contributes up to \$10,000 in the aggregate per year to their own campaign from their own funds.

**LAEA s.147.82(3)**

A candidate who contravenes section 147.22(1) or (2) is guilty of an offence and is liable to a fine of not more than \$1,000.

**LAEA s.147.23**

**Anonymous and Unauthorized Contributions**

Any anonymous contributions and any contribution or portion of a contribution made in contravention of the LAEA accepted by a candidate or a person acting on behalf of a candidate must not be used or expended.

The candidate or the person acting on behalf of the candidate shall:

- a) return the contribution to the contributor if the contributor's identity can be established, or
- b) if the contributor's identity cannot be established, pay an amount equivalent to the contribution to a registered charity or to the municipality for which the candidate is running for election.

**LAEA s.147.82(4)**

A candidate or a person acting on behalf of a candidate who fails to return or pay an amount referred to in section 147.23(a) or (b) is guilty of an offence and liable to a fine of not more than \$5,000.

**LAEA s. 147.24**

### **Contributions not belonging to Contributor**

No individual shall contribute to a candidate:

- a) funds not belonging to that individual, or
- b) funds that have been given or furnished to the individual by another individual or a prohibited organization for the purpose of making a contribution of those funds to a candidate.

No candidate and no person acting on behalf of a candidate shall solicit or accept a contribution if the candidate or person knows or ought to know that the contribution is contrary to the above.

No individual and no prohibited organization shall give or furnish funds to another individual for the purpose of having that other individual make a contribution of those funds to a candidate.

**LAEA s.147.82(5) and (6)**

A prohibited organization or a person acting on its behalf that contravenes section 147.24 is guilty of an offence and liable to a fine of not more than \$10,000.

An individual who contravenes section 147.24 is guilty of an offence and liable to a fine of not more than \$5,000.

**LAEA s.147.3**

### **Duties of a Candidate**

**A candidate must ensure that:**

- **a campaign account in the name of the candidate's election campaign or of the candidate is open at a financial institution for the purposes of the election**

campaign at the time of nomination or as soon as possible after contributions exceed \$1,000 in total;

- if a campaign account has been opened, all contributions of money are deposited into the campaign account;
- money in the account shall only be used for the payment of campaign expenses;
- contributions of real property, personal property and services are valued;
- receipts are issued for every contribution and obtained for every expense;
- records are kept of contributions and campaign expenses and are retained by the candidate for a period of three years following the date on which disclosure statements were required to be filed; and
- proper direction is provided to the candidate's official agent and any other person who is authorized to incur campaign expenses and to accept or solicit campaign contributions.

#### **LAEA s.147.83**

A candidate who contravenes section 147.3 is guilty of an offence and liable to a fine of not more than \$5,000.

#### **LAEA s.147.31**

### **Fund-raising Functions**

Fund-raising function includes any social function held for the purpose of raising funds for the candidate's election campaign by whom or on whose behalf the function is held.

The gross income from any fund-raising function must be recorded by the candidate on whose behalf the function was held.

If a fund-raising function is held by the sale of tickets by or on behalf of a candidate, the amount of the contribution is to be determined at the option of the candidate from the two options noted below:

- a) if the individual charge
  - i. is \$50 or less; the amount is not considered a contribution unless the purchaser requests a contribution receipt. If a receipt is requested the contribution amount is 50 per cent of the ticket price.
  - ii. is \$50.01 to \$100.00; contribution receipt amount is the ticket price less \$25

iii. Over \$100.00; contribution receipt amount is 75 per cent of the ticket price.

b) The amount considered to be a contribution is the difference between the price of the ticket and the fair market value of what the purchaser receives.

The price paid at a fund-raising function in excess of the fair market value at that time for goods or services received is considered to be a contribution to the candidate's election campaign.

The table below shows examples of fund-raising events and how to determine the contribution portion of each ticket sold or admission charged.

Ticket Price	Contribution Portion (receipted)	Expense Portion (not receipted)	LAEA Section	Note
\$40	\$0	\$40	147.31(3)(a)(i)	No request for receipt from ticket buyer
\$40	\$20	\$20	147.31(3)(a)(i)	Ticket buyer requests a receipt
\$40	\$25	\$15	147.31(3)(b)	Expense portion determined to be \$15 (market value)
\$80	\$55	\$25	147.31(3)(a)(ii)	Expense portion deemed to be \$25
\$160	\$120	\$40	147.31(3)(a)(iii)	Expense portion deemed to be 25% of ticket price

If the fund-raising function uses some means of raising funds other than selling tickets, the price paid in excess of the market value for goods or services received is a contribution.

The gross income of a fund-raiser, minus the contribution portion determined by either clause (a) or (b) above, must be recorded as fund-raising function revenue on the financial statement or campaign return of the candidate. The candidate should keep a separate record of the event showing the date of the function, ticket/admission price, and the number of tickets sold or admission charged.

Only residents of Alberta can purchase a ticket or pay for admission for a fund-raising event. It is a violation of the LAEA if prohibited persons or entities purchase tickets, pay admission, or offer a reimbursement for the full ticket/admission price.

### Silent Auctions

The following scenario is an example of how to report the revenue and contributions from silent auctions, often held alongside fund-raising events.

An individual donates a new tablet to a silent auction at a fund-raising function. The tablet, along with the donor's purchase receipt, is provided to the candidate. The candidate determines the fair market value of the tablet to be \$300, which is easily arrived at using the submitted receipt.

The candidate issues the donor of the tablet a "valued" contribution receipt for \$300.

The purchaser of the tablet (successful bidder), pays the bid amount, and

- if the successful bid was equal to or less than the fair market value, no contribution receipt is issued to the bidder, or
- if the successful bid was more than the fair market value, for example the bid was \$400, a \$100 "money" contribution receipt is issued to the purchaser.

## **LAEA s. 147.32**

### **Receipts**

Every candidate or person acting on behalf of the candidate shall issue a receipt for every contribution accepted in a form acceptable to the local jurisdiction. At a minimum, receipts should include the date of the contribution, name and address of the contributor, and the amount contributed.

## **LAEA s. 147.33**

### **Loans**

A candidate:

- a) may borrow money only from a financial institution, and



b) shall record all loans and their terms and shall report accordingly to the relevant municipality.

Only an Alberta resident may make a payment on behalf of the borrower in respect of a loan. Any payment to a candidate's loan that is made by an Alberta resident becomes a contribution by that individual and the contribution is accepted by the borrower if the individual is not reimbursed by the borrower before the borrower is required to file a disclosure statement.

This section applies to the borrowing of money related to the candidate's election campaign.

**LAEA s.147.34**  
**LAEA s.147.91**

## **Campaign Expense Limits**

No candidate and no chief financial officer of a candidate shall incur campaign expenses that exceed, in the aggregate, the amounts determined by the regulations.

There is no regulation enacted determining campaign expense limits for the 2021 general election; therefore, there are no defined spending limits. This means candidates may spend any amount they raise in accordance with the defined contribution limits.

**LAEA s.147.4**

## **Campaign Disclosure Statements**

Every candidate (including a candidate who withdraws) is required to file a disclosure statement (Form 26 – Campaign Disclosure Statement and Financial Statement – forms are available at [Alberta.ca](http://Alberta.ca)) with the municipality on or before March 1 immediately following the general election.

In the case of a by-election, the disclosure statement must be filed no later than 120 days after the date of the by-election.

The disclosure statement must include:

- the total amount of all campaign contributions received during the campaign period that did not exceed \$50 in the aggregate from any single contributor;
- the total amount contributed, together with, the contributor's name and address, for each contributor whose contributions during the campaign period exceeded \$50 in total;

- the total amount of contributions received outside of the campaign period (not exceeding contributions of \$5,000 in total per year, or candidate contributions of \$10,000 in the total per year);
- the total amount from fundraising functions;
- the total amount of other revenue;
- the total amount of campaign expenses;
- an itemized campaign expense report setting out the campaign expenses incurred by the candidate;
- the total amount of money paid by the candidate;
- the total amount of any surplus, including any surplus from previous campaigns; and
- the amount of any deficit.

A candidate who incurs campaign expenses or receives contributions of \$50,000 or more, shall file a review engagement with the disclosure statement. Review engagements are defined in the *Chartered Professional Accountants Act*.

A candidate who withdraws must also file a disclosure statement.

Within 30 days, a candidate must submit a supplementary statement in the prescribed form to the municipality if any of the information reported in the disclosure statement has changed or is inaccurate.

The municipality must ensure all documents filed are available to the public during regular business hours for four years after the election.

**LAEA s.147.84(1.1)(a)**

A candidate is guilty of an offence if they fail to submit the supplementary statement within 30 days and liable to a fine of not more than \$5,000. Failure to comply with the reporting requirements in Part 5.1 may also render an individual ineligible to be nominated as a candidate in future elections under section 22(1.2) of the LAEA.

**LAEA s.147.84(1)**

A candidate who fails to file the disclosure statement by April 1 in the year following a general election is guilty of an offence and liable to a fine of not more than \$5,000. In the case of a by-election, the disclosure statement must be filed within 150 days after the by-election.

**LAEA s.147.84(2)**

If a candidate is found guilty of contravening section 147.4, the court may, in addition to the penalty provided, order the candidate to pay any surplus to the local jurisdiction as soon as possible

**LAEA s.147.5**

**Campaign Surplus**

On or before March 1 following the general election (120 days in the case of a by-election), if the candidate's disclosure statement shows a surplus, the candidate, within 60 days:

- a) shall, with respect to any amount that is \$1,000 or more, donate an amount to a registered charity that results in the surplus being less than \$1,000, and
- b) may, with respect to any amount that is less than \$1,000,
  - i. retain all or any portion of that amount, and
  - ii. donate all or any portion that amount to a registered charity.

A candidate who donates an amount to a registered charity must within 30 days after the 60-day period provided above, file an amended disclosure statement showing the surplus has been dealt with.

This applies to a candidate whether or not they are elected.

**LAEA s.147.84(1.1)(b)**

A candidate is guilty of an offence if they fail to submit the supplementary statement within 30 days and liable to a fine of not more than \$5,000.

**LAEA s.147.51**

If, on September 1, 2020, a campaign surplus amount was held in trust, the candidate, no later than January 1, 2022:

- a) shall, with any amount \$1,000 or greater, donate an amount to a registered charity that results in the surplus being less than \$1,000, and
- b) may, with any amount less than \$1,000 retain all or any portion of that amount and donate all or any portion of that amount to a registered charity.

A registered charity is defined under section 1(t.4) of the LAEA and means a registered charity within the meaning of subsection 248(1) of the *Income Tax Act* (Canada).

If a municipality does not receive direction on or before January 1, 2022, the money becomes the property of the local jurisdiction.

This section applies to money paid to a municipality pursuant to a court under section 147.84(2).

**LAEA s.147.52**

## **Campaign Deficit**

If a candidate's disclosure statement shows a deficit, the candidate shall eliminate the deficit within 60 days after filing the disclosure statement with the municipality. For the purposes of eliminating a deficit, a candidate may accept contributions within the 60-day period.

A candidate shall not accept a contribution that exceeds \$5,000 from any individual and may make a contribution from the candidate's own funds that does not exceed \$10,000 for the purpose of eliminating a deficit.

A candidate must, within 30 days after the expiration of the 60-day period, file an amended disclosure statement showing the deficit has been eliminated.

**LAEA s.147.84(1.1)(c)**

A candidate is guilty of an offence if they fail to submit the supplementary statement within 30 days and liable to a fine of not more than \$5,000.

**LAEA s.147.7**

## **Late Filing**

A candidate who fails to file a campaign disclosure statement within the specified time period is required to pay a \$500 late filing fee to the municipality. If the fee is not paid within 30 days, the municipality must send a notice to the candidate indicating the amount of the late filing fee to be paid.

If a candidate fails to file a disclosure statement, the secretary shall transmit a report to council and upon receipt, the report must be made public. If a candidate files their disclosure statement no later than 10 days after the filing deadline, the candidate is not required to form part of the report proceeding to council. In the case of a school board trustees, the secretary of the school board shall transmit a report to the school board.

If a candidate, who is sent a notice by the municipality, fails to pay the late filing fee, the municipality may file a notice with the Court of Queen's Bench.

**LAEA s.147.8**

A candidate may within the 60-day period following the date the report is made public, apply to the Court for relief.

**LAEA s.147.81**

## **Prosecution**

A prosecution under Part 5.1 may be commenced within three years of the commission of the alleged offence but not afterwards.

**LAEA s.147.93 – 147.96**

## **Transitional Provisions**

The transitional provisions at the end of Part 5.1 address contributions made to candidates during the time period between January 1, 2018 and when Bill 23, *An Act to Renew Local Democracy in Alberta* received first reading on November 5, 2018, and also when it received Royal Assent on December 11, 2018. If candidates are uncertain of how contributions received in these transitional periods were impacted by Bill 23, they should seek independent legal advice to ensure they did not contravene any provisions relating to contributions during these time periods and they remain eligible to become a candidate in the 2021 general election.