From: Karrina Jung <Karrina@rmalberta.com>
Sent: Wednesday, June 19, 2024 9:50 AM
To: RMA Board Dist <aamdcboarddist@rmalberta.com>
Subject: Bill 20 Member Summary

Good morning RMA Mayors, Reeves and CAOs,
Please distribute to relevant staff

Please find attached a more detailed analysis of the changes made to the MGA and LAEA through Bill 20.

If you have any questions, please do not hesitate to reach out!

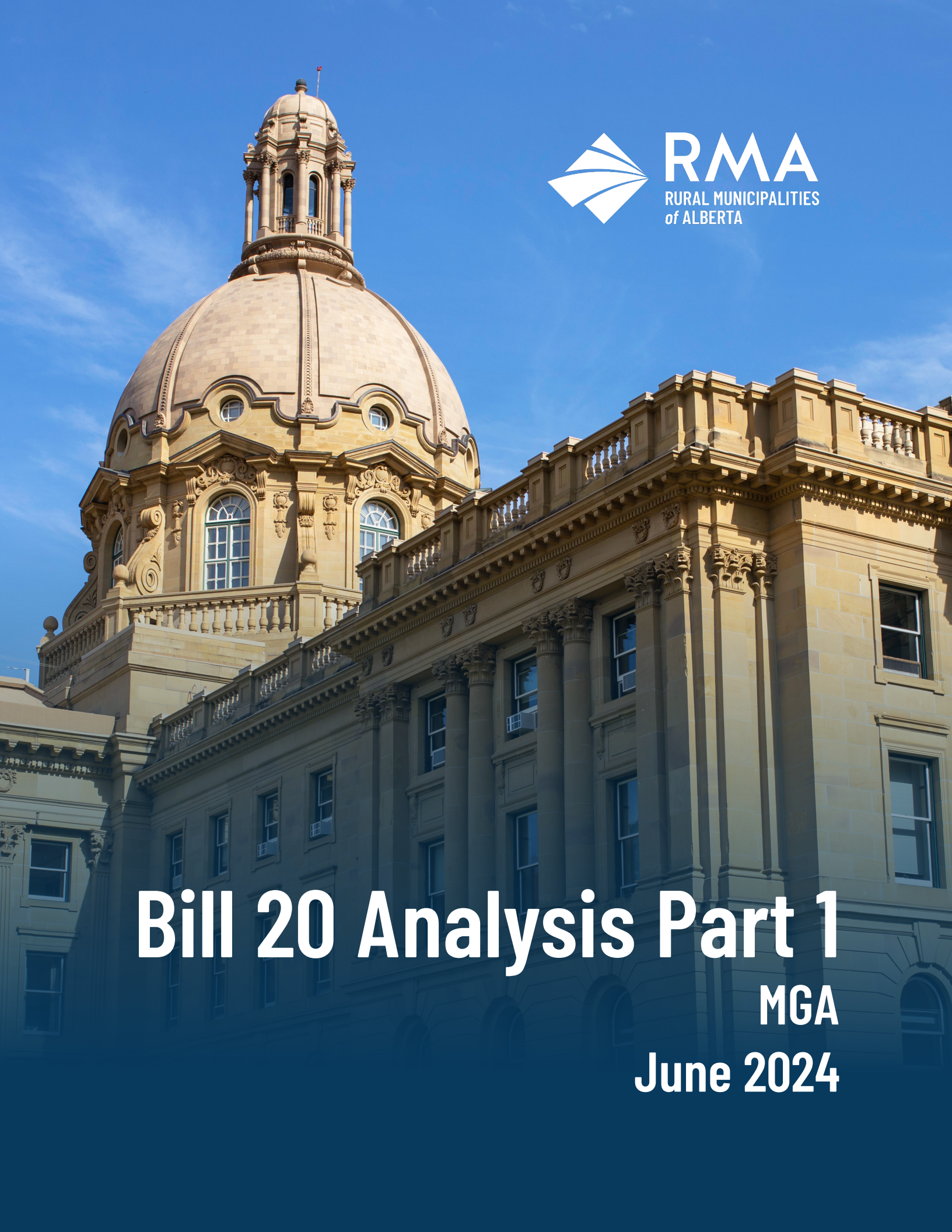
Best,

Karrina Jung
Policy Advisor

RMA RURAL MUNICIPALITIES of ALBERTA

Office: 780.955.4085
RMAlberta.com

2510 Sparrow Drive, Nisku, Alberta T9E 8N5 780.955.3639



RMA
RURAL MUNICIPALITIES *of* ALBERTA

Bill 20 Analysis Part 1

MGA

June 2024

Introduction

Bill 20: *Municipal Affairs Statutes Amendment Act, 2024* received royal assent on May 30, 2024. Bill 20 makes dozens of changes to the *Municipal Government Act* and the *Local Authorities Election Act.* While a small number of Bill 20 changes are especially contentious and have led to a strong reaction from RMA, many others are smaller scale, more subtle, or mainly administrative. While these smaller Bill 20 changes may not have transformative impacts on municipal governance or local elections, they are still significant and require analysis. To assist member awareness and interpretation of Bill 20, RMA has prepared a two-part *Bill 20 Analysis* document.

Previous Legislation

Upon disqualification, if a councillor chooses not to resign immediately, the council must apply to the Court of King's Bench for an order declaring the councillor is disqualified.

The councillor is not required to vacate their seat until the Court decision is finalized.

Amended Legislation

Upon disqualification, the council may declare the disqualified councillor's seat vacant. The councillor may apply to the Court of King's Bench for an order determining whether the councillor is qualified or disqualified from council.

The municipality may not hold a byelection to fill the vacant seat until the Court application has expired or at least 60 days has passed since the disqualification occurred.

RMA Analysis:

This change shifts the onus for judicial confirmation of disqualification from the municipality to the disqualified councillor.

Previously, if a councillor refused to vacate their seat when disqualified, they could remain on council until the Court reached a decision. Under the change, the council seat becomes vacant until the Court reaches a decision, upon which the councillor returns or a by-election is called, depending on the decision.

This change should mitigate risks of council disfunction by requiring a disqualified councillor to vacate their seat until their status is confirmed. It is important that timelines were amended in section 162 to ensure no action can be taken to fill the vacant seat until the disqualified councillor's status is confirmed in the Courts.

Conflicts of Interest and Pecuniary Interests (S. 169 (b.1), 170, 172.1)

Previous Legislation

Elected officials are only able to recuse themselves from votes and discussions on matters in which they have a pecuniary (financial) interest.

A councillor has a pecuniary interest in a matter if the matter could monetarily affect the councillor or their employer, or if the councillor knows or should know that the matter could monetarily affect their family

Amended Legislation

An elected official may recuse themselves from matters in which they have pecuniary interests, as before, but may also recuse themselves from matters that will affect a "private interest" of the councillor, their employer, or their family.

Private interests have been defined as interests in matters that are of general application, matters that affect a councillor as one of a broad class of the public, or matters that concern the remuneration and benefits of a councillor.

These private interests are determined to be affected by a matter if the matter impacts:

- the councillor directly,
- a non-distributing corporation in which the councillor is a shareholder, director, or officer;
- a distributing corporation where the councillor beneficially owns voting shares carrying 10%+ of the voting rights; or
- a partnership or firm of which the councillor is a member.

When a councillor believes they may have a conflict of interest, they may choose to (but are not obligated to) disclose the conflict; if they do, then they may (but again, are not obligated to) abstain from voting or discussing the matter, or leave the room until after voting/discussion has concluded.

There is no review or consideration of the councillor's decision to recuse themselves during a disqualification hearing or the code of conduct complaint process.

RMA Analysis:

At a high level, the RMA understands the rationale behind widening the scope in which councillors may recuse themselves for non-financial conflicts of interest. However, the RMA also believes that as written, this change does little to assist with governance, councillor accountability, or local democracy, and instead creates more ambiguity around the recusal process.

This change gives councillors the choice to recuse themselves from a matter for which they believe they may have a conflict of interest. In municipalities with smaller populations, this could lead to issues where the council is unable to meet quorum for certain decisions, as multiple councillors could have a conflict on the same matter. This could lead to delays, or even the inability for the council to vote on issues.

Further, this widening of scope could lead to an increase in "gray areas" in which a councillor is unsure of whether to declare a conflict and, if so, recuse themselves. This could lead to more public criticism of a councillor if they make what the public perceives as the wrong decision on a "debatable" conflict of interest scenario.

The RMA is also unclear as to why councillors are not required to disclose a self-identified conflict of interest, and why disclosure does not automatically trigger a recusal. This seems like an arbitrarily different process from that which is followed for pecuniary interest. The RMA plans to follow up with Municipal Affairs to clarify the rationale for the different processes.

Dismissal of Councillor by Cabinet (S. 179.1)

Previous Legislation

Sitting councillors may only be removed by the Minister of Municipal affairs through the municipal inspection process, and only under very specific circumstances

Amended Legislation

As amended, Bill 20 provides that Cabinet may remove a councillor by ordering that municipality's chief administrative officer to conduct a vote of the electors (essentially, a recall vote) to determine if that councillor should be dismissed.

Further, Cabinet's power will be limited to councillors who Cabinet considers to be "unwilling, unable, or refusing" to do the job they were elected to do, or if Cabinet believes that the vote is in the "public interest." When evaluating public interest considerations, Cabinet may (but is not obligated to) consider illegal or unethical behaviour by the councillor.

If the electors vote to dismiss the councillor, their seat is automatically vacated as of the date of the vote, and the council must hold a by-election to fill the vacant.

RMA Analysis:

The RMA is concerned that this power, if unchecked, will lead to the province ordering CAOs to hold recall votes to remove councillors without a process to ensure fairness and due diligence. Further, with no definition of "public interest" or guidelines for what might lead to dismissal, the province is creating a situation in which democratically elected councillors can be dismissed without cause.

While the RMA appreciates that this power was somewhat scaled back through amendments from an immediate dismissal of a councillor to ordering a vote of the electors, the amendments still fail to adequately define the "public interest" and leaves the term open for Cabinet's interpretation and politicization. Even the act of ordering a vote for dismissal will have major implications on the credibility of the impacted councillor, and potentially the council more broadly.

This change allows the Government of Alberta to wield a constant "hammer" over councillors that speak out against provincial policy, or potentially that disagree with their council colleagues on issues with provincial significance.

On a more practical level, the RMA is concerned that municipalities will be responsible for covering the costs of recall votes ordered by the Minister or by-elections that come as a result of the electors' vote.

Previous Legislation

There are no requirements in place for councils to offer digital options for public hearings on planning and development; councils may choose to hold electronic hearings for council or council committee meetings and hearings.

Amended Legislation

Every municipal council must, by bylaw, provide for public planning and development hearings to be held by electronic means. This bylaw must be passed within six months of the coming into force of these amendments.

RMA Analysis:

While the RMA supports public involvement in the democratic process and transparency in decision making, this amendment will disproportionately impact small and rural municipalities with relatively limited staff, resources, and technological capabilities, many of which also face issues with access to reliable broadband.

The costs associated with hosting electronic public hearings can be quite high, and were likely not accounted for in the current budget. The timelines to have this amendment in place, with no confirmation of financial support for this amendment is concerning.

Previous Legislation

Municipalities can hold "extra" planning and development hearings beyond the legislated requirements.

Amended Legislation

Unless otherwise specified in the MGA or another enactment, councils are only able to hold a single public planning and development hearing on each proposed bylaw, resolution, or any part thereof, as they relate to residential developments or developments with residential and non-residential developments.

RMA Analysis:

The RMA recognizes that the housing crisis affects both urban and rural municipalities, and that swift action is needed to build more housing. With that said, the RMA also recognizes that this change reduces local autonomy and decision-making by preventing additional public planning and development hearings at the local municipal level, even if the electors or local council believes it to be in the public interest, and may lead to certain developments being rushed through the approval process without proper consultation.

The RMA's other concern is the fact that this amendment applies to both individual residential developments and to developments with both residential and non-residential elements together. This change effectively bars a municipality from holding additional non-statutory hearings on the impact of a shopping centre or other non-residential development, simply because there are residential elements within the development. This derails local autonomy and decision making and hands developers a loophole: the power to have their various non-residential developments face less public scrutiny, purely because there are some residential elements in their development.

Previous Legislation

Municipalities must offer training for councillors, but there are no requirements for the incoming councillors to attend that training.

Amended Legislation

Councillors will now be required to attend orientation training. Further, the training is to be broken out into two sections, with two separate deadlines:

Part "A" must be offered prior to or the same day as the first organizational meeting after a general election, or the day a councillor elected through a by-election takes the oath of office. Part "A" must include:

- Role of municipalities in AB;
- municipal organization and function;
- council and councillor roles and responsibilities;
- the municipality's code of conduct; and
- the roles and responsibilities of the CAO and staff;

Part "B" must be offered prior to or on the same day as the first regularly scheduled council meeting, or 90 days from the day a councillor elected through a by-election takes the oath of office. Part "B" must include:

- Key municipal plans, policies and projects;
- budgeting and financial administration;
- public participation; and
- any other topic prescribed by the regulations.

Council may, by resolution, extend the time to complete part "B" by up to 90 days.

RMA Analysis:

The RMA supports mandatory training for councillors. However, the specific process outlined in Bill 20 is complex, logistically challenging, and may significantly increase municipal training costs by complicating or completely limiting the ability of councils to attend group training sessions.

The timelines involved are short and some municipal councils may face challenges in implementing the legislated changes to councillor training, especially if each municipality is required to have their own custom training. The language in section 201.1 is open to interpretation as to whether the training is intended to focus on the various topics at a general level or within the context of the specific municipality. For example, does “key municipal plans, policies and projects” refer to common examples across all municipalities, or those currently in place in the individual municipality conducting the training?

If each municipality is required to hold their own individualized, specific orientation program that touches on each of the required elements, the RMA is concerned that different municipalities (or instructors) will have inconsistent perspectives on what is the “correct” information for the training. This may also lead to situations where larger municipalities are able to afford much more comprehensive training than smaller municipalities.

The RMA has several outstanding questions on this issue, including:

1) Who will verify that a training course is “up to standard” and that councillors participated at an adequate level?
2) Is there a provincial standard to meet as it relates to content detail related to each of the legislated topics?
3) Will the training required be general (i.e., on the roles of municipalities in Alberta), or specific to the jurisdiction (the roles and responsibilities of the CAO and staff)?

Recall Petitions (S. 240.1(2), 240.2(4)(a), 240.3(a), 240.7-240.9, 240.91, 240.92, 240.941)

Previous Legislation

The municipality's chief administrative officer is responsible for validating recall petitions.

Amended Legislation

The Minister of Municipal Affairs is now responsible for validating recall petitions.

This change appears to come into effect on January 1, 2025; any recall petition commenced before January 1 will be dealt with using the previous CAO-led method.

RMA Analysis:

The RMA agrees that the current process puts a municipality's chief administrative officer in a difficult, conflicted position, and appreciates this amendment and this role being assumed by the Minister.

Previous Legislation

There is a lack of clarity regarding who should be assessed for electrical generation systems.

Amended Legislation

The person who is to be assessed for electrical generation systems is to be the operator of that system; the operator is not necessarily the owner of that system or facility.

RMA Analysis:

The RMA supports changes to the assessment of regulated property, including electrical generation stations, that improve clarity and make it easier for regulated assessment processes to be interpreted by ratepayers, municipalities, and assessors.

Property Tax on Non-Profit Subsidized Affordable Housing (S.317(d), 363, 364.1)

Previous Legislation

There are no provisions in place to permit the exemption of non-profit subsidized affordable housing from property taxation.

Amended Legislation

Affordable housing accommodation, as defined in the *Alberta Housing Act* and that is not already exempt from taxation under s. 361 of the MGA, will become exempt property that can be made taxable.

RMA Analysis:

The RMA appreciates action on the housing crisis and that rural municipalities have increased autonomy through the ability to grant tax breaks to developers.

However, the RMA believes this amendment to be a half-measure; it further downloads the cost of affordable housing onto municipalities without a corresponding action on the part of the province.

Previous Legislation

Municipalities are only able to offer multi-year property tax incentives on non-residential developments.

Amended Legislation

Municipalities may now offer multi-year property tax incentives for residential or non-residential developments, including deferring collection or offering partial or full exemptions of property tax.

RMA Analysis:

The RMA supports changes that lead to the mitigation of the housing crisis faced by Albertans. However, the RMA would like to see changes made at the provincial level to increase capital funding for rural municipal non-residential and residential development. Under the current property tax and grant regime, it is very challenging to expect municipalities to voluntarily forgo property tax revenue while still meeting increased service and infrastructure requirements associated with new development.

Cabinet to Require Municipality to Repeal Bylaw (S. 603.01)

Previous Legislation

The Lieutenant Governor can make regulations for any matter they consider is not sufficiently provided for or provided for at all in the *MGA*, or to restrict a council's power to pass bylaws.

Cabinet is only permitted to intervene with respect to a land use bylaw or statutory plan.

Lieutenant Governor in Council regulations (603(1)) state that the Lieutenant Governor in Council may make regulations (a) for any matter that the Minister considers is not provided for or is insufficiently provided for in this Act; (b) restricting the power or duty of a council to pass bylaws.

Amended Legislation

Enables the Lieutenant Governor to order a municipality to amend or repeal a bylaw if, in Cabinet's opinion, specific requirements are met that allow Cabinet to intervene.

The requirements listed are:

- the bylaw exceeds the scope of the MGA or otherwise exceeds the uthority granted to a municipality under the MGA o';r any other statute,
- conflicts with the MGA or any other statute,
- is contrary to provincial policy, or
- contravenes the Constitution of Canada.

RMA Analysis:

Bylaws are the backbone of a municipality's ability to operationalize its vision and are developed by a municipality to best serve their local community and guide all aspects of municipal operations, administration, and governance.

This section of Bill 20 challenges local autonomy and municipal decision making, and provincial intervention could create significant issues for rural municipalities if left unchecked. Giving the province the power to change or repeal bylaws that they disagree with is contrary to the grassroots, conservative, anti-red tape values that this provincial government claims to stand for; based on the RMA's interpretation, the clause allowing repeal based on misalignment with "provincial policy" allows for exactly this.

This power was somewhat limited by amendment to contain nearly the same limitations on municipal bylaws that are already contained within the MGA, but the additional term "contrary to provincial policy" concerns the RMA greatly. The lack of express definition for what constitutes a provincial policy leaves Cabinet wide latitude to interpret, politicize, and interfere with an otherwise sound local bylaw. Despite the amendments, this new section of the MGA remains an affront to local democracy.

Cabinet to Require Amendment or Repeal of Bylaws due to Public Health or Safety Concerns (S. 615.11)

Previous Legislation

No provisions currently exist in the MGA as it relates to requiring councils to amend bylaws around public health and safety.

Amended Legislation

Cabinet has the authority to order a municipality's council to take specific action to protect public health and/or public safety.

Should the council not carry out that order to Cabinet's satisfaction, then the Lieutenant Governor may direct the Minister to make one or more orders referred to in section 574(2)(a) to (g), and/or an order dismissing the council or any member of it.

The Minister, if making one of these orders, must give the municipality notice and at least 14 days to respond.

RMA Analysis:

The RMA would like to see more clarity on the definitions of "public health and public safety"; as with other sections, these terms remain virtually undefined and thus the section confers a very broad power. Further, the powers granted to Cabinet in the event that a council refuses Cabinet's order are very strong, permitting the revocation of a council's bylaw making authority or the dismissal of a council. This interference in local decision making is an affront to local autonomy and democracy.

The RMA understands that this change is in response to municipalities making bylaws which do not align with provincial mandates. However, such a broad, undefined enforcement mechanism should not be used to address an issue with one or a small number of municipalities.

The RMA's chief concern, aside from the intrusion on local autonomy, is that Cabinet has the power to direct the Minister to make orders suspending the authority of the council to make bylaws, or an order dismissing council or any member of it.

The RMA has several outstanding questions on this issue, including:

- What does "public health" encompass?
- What does "public safety" encompass?
- If an entire council is dismissed under this provision, what happens next?

Previous Legislation

All criteria for joint use and planning agreements are in the MGA. There are no related regulations.

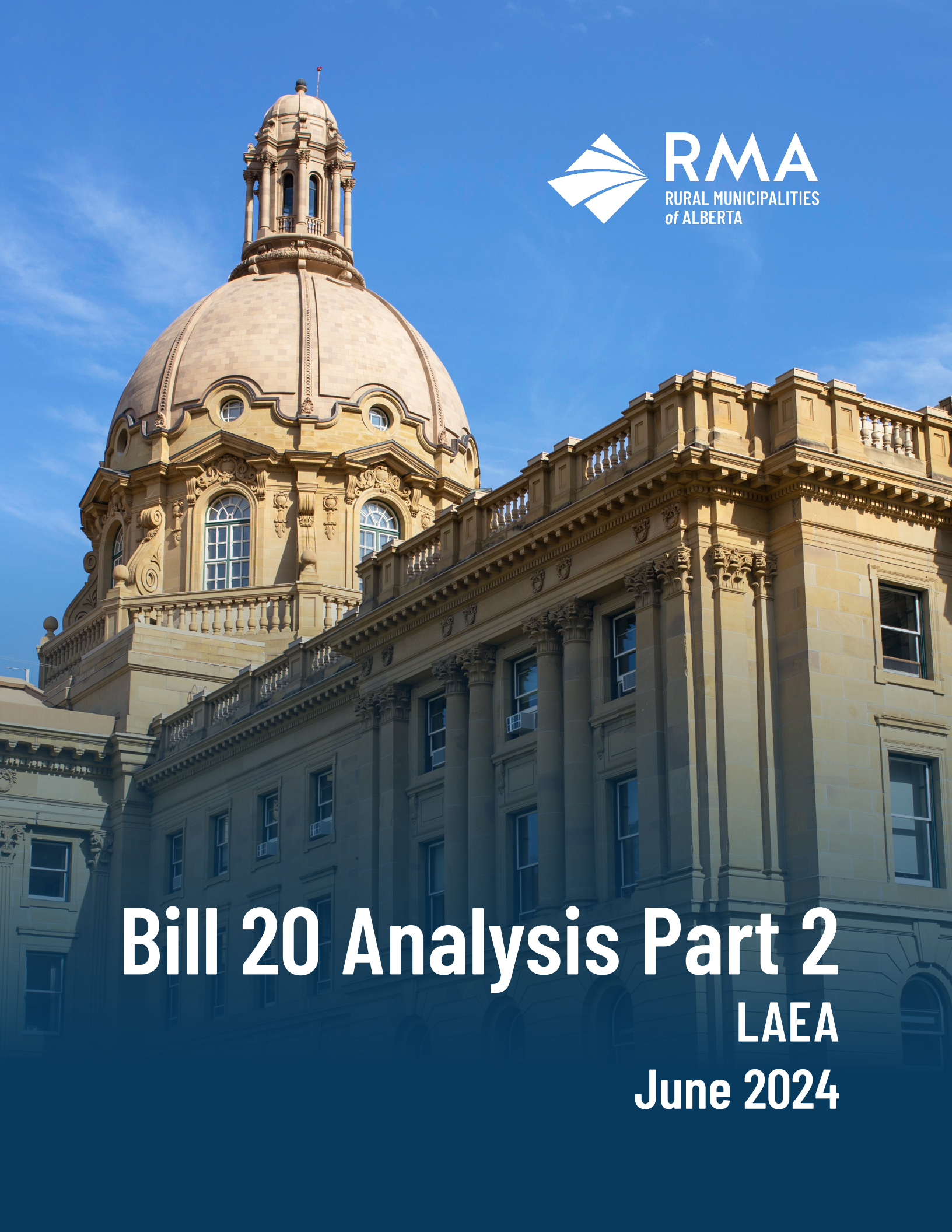
Amended Legislation

The Minister will be allowed to make regulations respecting the criteria, requirements, exemptions, and any other matters related to joint use and planning agreements.

RMA Analysis:

The MGA requires municipalities to enter into joint use and planning agreements (JUPAs) with school boards to enable the integrated, long-term planning of school sites. These are intended to be reasonably straightforward agreements on how space is shared outside of school hours, dispute resolution practices, and timeframes for review.

It is the RMA's understanding that this change, and the subsequent regulations, are intended to reduce uncertainty for municipalities and school boards by providing scope around the JUPA process.



RMA
RURAL MUNICIPALITIES *of* ALBERTA

Bill 20 Analysis Part 2

LAEA

June 2024

Introduction

Bill 20: *Municipal Affairs Statutes Amendment Act, 2024* received royal assent on May 30, 2024. Bill 20 makes dozens of changes to the *Municipal Government Act* and the *Local Authorities Election Act*. While a small number of Bill 20 changes are especially contentious and have led to a strong reaction from RMA, many others are smaller scale, more subtle, or mainly administrative. While these smaller Bill 20 changes may not have transformative impacts on municipal governance or local elections, they are still significant and require analysis. To assist member awareness and interpretation of Bill 20, RMA has prepared a two-part *Bill 20 Analysis* document.

Campaign Period (S. 147.1, 147.22(4))

Previous Legislation

For general election years, the campaign periods run from Jan. 1 to Dec. 31 of that year.

For by-elections, the campaign period is the period set by bylaw or resolution to 60 days following the by-election.

Amended Legislation

Now, the campaign period starts on January 1 of the year following a general election year, and ends on Dec. 31 immediately following the next general election.

For by-elections, the period starts on the day after the bylaw is passed to set the election day and ends 60 days after the by-election.

No candidate or person acting for that candidate shall accept a contribution in respect of an election outside the campaign period for that election.

Individual Albertans are now permitted to donate $5,000 per calendar year in aggregate to all candidates within a municipality during the campaign period.

Corporations, trade unions, and employee organizations are permitted to donate a total of $5,000 per campaign period in aggregate to all candidates within a municipality.

RMA Analysis:

The RMA's understanding of the amendment is that the "campaign period" for a general election will shift from January to December of an election year to now encompass the entirety of the time separating elections.

For example, the campaign period for an election held in July 2024 would begin in January 2024 and run until Dec. 31, 2024. Then, the campaign period for the next election will begin the following day on Jan. 1, 2025, despite that next election being years away.

The RMA is concerned about the various impacts this change will have on election advertising and candidate campaign contributions.

There is also a concern that upon being elected, a councillor could immediately face opposition from individuals running against them. When combined with the other changes to the LAEA, this will transform the landscape of municipal elections.

Prohibited Organizations (S. 147.1)

Previous Legislation

Prohibited organizations are currently defined as "a corporation and an unincorporated organization, including a trade union and an employee organization."

Amended Legislation

The definition of prohibited organizations has been altered considerably. It now includes:

- municipalities;
- corporations controlled by municipalities that meet the test set out in section 1(2) of the MGA;
- non-profit organizations that have received grants, real property, or personal property from the municipality in which the election is being held;
- a provincial corporation as defined in the *Financial Administration Act*, including a management body under the *Alberta Housing Act*;
- Metis settlements;
- a board of trustees under the *Education Act*;
- public post-secondary institutions;
- corporations not carrying on business in Alberta;
- registered parties defined in the *Canada Elections Act* or the *Election Finances and Contributions Disclosure Act*; or
- an organization designated by the Lieutenant Governor as a prohibited organization.

Corporations that are associated with one another under the *Income Tax Act* will be considered as a single corporation for the purposes of this part of the LAEA.

RMA Analysis:

The RMA supports changes that prevent foreign actors (whether extra-provincial or international) from involving themselves in and influencing Alberta's local municipal elections.

However, the considerably expanded definition of prohibited organizations and the new rules around campaign contributions are a cause for concern to the RMA, as are many of the newly-listed additions to prohibited organizations.

The ability for the Lieutenant Governor to designate an organization as a prohibited organization is also concerning, as the new definition is already very detailed and there should be relatively few groups or organizations that are not already covered by the new definition. The RMA interprets this power as a tool to be used for political purposes and would prefer to see the already lengthy definition expanded to encompass other organizations that Cabinet potentially considers to be prohibited.

Previous Legislation

"Prohibited organizations" have been prohibited from donating to municipal campaigns since 2018.

Further, donations by individuals ordinarily resident in Alberta outside of the current campaign period (January 1 to December 31 of an election year) were restricted to a maximum of $5,000 per year.

Amended Legislation

Individuals ordinarily resident in Alberta may contribute $5,000 per calendar year during the campaign period. Due to the changes to campaign periods above, this results in a gross donation limit of $20,000 per individual per four-year campaign period in each individual municipality. There is no restriction on the number of municipalities to which an individual can donate.

Further, the expanded definition of prohibited organization (above) substantially clarifies what groups or organizations may make contributions to candidates., as it no longer includes corporations, trade unions, or employee organizations, meaning all three are now permitted to make donations.

RMA Analysis:

The RMA has concerns with allowing corporate and union donations to candidates in local municipal elections. Municipal elections are supposed to be the place where local electors' voices are represented through democracy, but this change pulls some of that power from the elector and puts it into the hands of organizations and groups with political lobbying agendas, especially as there is no provincewide limit on donation amounts, meaning that a corporation or trade union could hypothetically donate to elections in every municipality in the province.

The RMA appreciates that "big, dark money" – as referred to by the Minister as the basis for this change – is causing at least some issues in local politics and causing certain candidates to receive substantial financial assistance with their platforms and campaigns. However, rather than taking steps to stop all contributions outright, Bill 20 enables those same parties to make contributions on a virtually limited basis.

Previous Legislation

There were no provisions in place for the Minister to postpone an election in the event of a natural disaster.

Amended Legislation

The Minister will have regulation-making authority to postpone elections in the event of natural disasters, emergencies, or "unforeseen circumstances".

These must be likely to have a significant effect on the conduct of an election or the ability of voters to access voting stations, put or may put the health or safety of voters in that jurisdiction at risk, or have other impacts prescribed by the regulation.

Further, the Lieutenant Governor in Council may make regulations regarding emergencies referred to in s. 6.1.

RMA Analysis:

At a high level, the RMA supports this change, as there should be some mechanism in to postpone an election should a natural disaster impact electors' access to voting station or cause them to be put in harm's way by exercising their democratic rights. However, the RMA cannot fully support this change without consulting with the Ministry on the regulations that would clarify scope and limits of these new powers.

Further, the term "unforeseen circumstances" is excessively broad, and the RMA is concerned that other circumstances – such as civil unrest or widespread public protests due to dissatisfaction with the government of the day – may lead to the delay of an election despite no natural disaster occurring, or at least bring forward questions of whether the Minister's decision to postpone was valid.

The RMA looks forward to consulting with the Ministry on the regulations pertaining to these emergency powers to ensure that definitions and details are sufficiently clear to issues arising because of their use by the Minister.

Previous Legislation

"City" was an undefined term throughout section 21.

s. 22- A person is ineligible to be nominated as a candidate in any election under the *LAEA* if on nomination day, the person has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act*, the *Election Finances and Contributions Disclosure Act* or the *Canada Elections Act* (Canada).

Amended Legislation

"City" is now defined as a municipality whose formation order specifies that municipality is a city or whose status is changed to a city after its formation.

If candidate whose nomination has already been accepted, but on or before election day:

- uses contributions in breach of s. 147.23;
- is convicted of an offence punishable by imprisonment for five or more years; or
- is convicted of municipal corruption, selling or purchasing office, or influencing or negotiating appointments or dealing in offices;

then that person is disqualified and becomes ineligible to continue as a candidate in an election under this act.

RMA Analysis:

At a high level, the RMA supports these changes to candidate nominations, as it clarifies the rules around nominees breaking the law between nomination day and election day.

Based on the RMA's analysis, the previous regulations around candidate qualification only applied to the ineligibility for a candidate to become nominated, and once nominated, the candidate could go on to commit or be convicted of certain offences with little to no consequences expressed in the LAEA that would apply during the period between nomination day and election day. In those limited, rare circumstances, this change is reasonable.

Criminal Record Checks for Candidates (S. 21.1,27,28)

Previous Legislation

There are no provisions in the LAEA regarding criminal record checks for candidates.

Amended Legislation

The municipality may pass a bylaw, prior to December 31 of the year before a general election year, that requires persons seeking to be nominated as candidates to provide a criminal record check.

Further, if a criminal record check accompanies a candidate's filed nomination papers, the results of that check must not be withheld or redacted except to ensure the mailing addresses of the candidate and their official agent are not disclosed.

RMA Analysis:

This change grants municipalities more autonomy in deciding whether a candidate should be required to provide a criminal record check. Further, should a municipality pass a bylaw requiring criminal record checks, it would increase transparency in the election process.

Previous Legislation

No rules about ineligibility for nomination as a result of a candidate or a person acting on their behalf spending anonymous or ineligible campaign contributions after giving written notice of their intent to be nominated or nomination (see s. 147.22).

Amended Legislation

A person is not eligible to be nominated as a candidate for election as a councillor or as a trustee of a board of a school division if the person uses or expends a contribution in contravention of section 147.23 on or after the time the person gives written notice or was required to give written notice under section 147.22.

RMA Analysis:

The RMA supports changes to the LAEA that increase the clarity of election contribution rules and candidate eligibility.

However, the RMA is also concerned that this largely administrative change could result in unintended consequences that are contrary to the intent of election offences.

Nomination Deposit Changes (S. 29(1), 30(1))

Previous Legislation

Local authorities may, by bylaw passed no less than 30 days before nomination day, require that every nomination be accompanied by a deposit.

Further, the deposit must be cash, certified cheque, or money order.

Amended Legislation

The date of the bylaw passing is changed from 30 days before nomination day to before December 31 of the year before a year in which a general election is to be held.

Further, the deposit can now be paid with cash, certified cheque, money order, e-transfer, debit card, or credit card.

RMA Analysis:

The RMA supports this change as it provides more flexibility to candidates and updates the rules around nomination deposits to reflect modern means of payment. It also provides more certainty to candidates as bylaws concerning nomination deposits must now be passed much further in advance of nomination day.

Insufficient Nominations and Receiving Nominations (S. 31(1)(b))

Previous Legislation

The time to receive a nomination "shall continue in the same manner from day to day until 12 noon of the day that the required number of nominations has been received or a period of six days (including nomination day but not including weekends or holidays) has elapsed.

Amended Legislation

The 12 noon requirement is removed. The time to receive a nomination shall continue in the same manner from day to day until a period of six days (including nomination day but not weekends or holidays) has elapsed.

RMA Analysis:

The RMA supports this practical, administrative change to the nomination process, but will monitor the implementation of this change for unintended consequences.

Permanent Electors, Registers and Voter Lists (S. 49-51, 91.1)

Previous Legislation

Municipalities are able to enact bylaws requiring the preparation of voters lists that must be shared with all candidates in an election.

Amended Legislation

Municipalities will no longer be permitted to create a voters list due to sections 50 and 51 being repealed.

Rather, they are now required to prepare a permanent elector's register, compiled and revised primarily using information received from the Chief Electoral Officer. Further, municipalities are now required to enter into an agreement with the Chief Electoral Officer to receive information to assist the municipality in compiling the permanent electors register, and to provide any information that will assist the Chief Electoral Officer with preparing or revising information for compiling the register of electors under the Elections Act.

It will be optional for summer villages to prepare a permanent electors register or enter into an agreement with the Chief Electoral Officer.

The presiding deputy must make copies of the electors register and provide them to the local jurisdiction, and once received, the local jurisdiction will use the copies to revise the permanent elector's register before being required to destroy them as soon as reasonably practicable.

RMA Analysis:

The RMA appreciates that voters lists could be misused by bad actors and supports changes that ensure the security of electors' information.

However, the RMA is concerned by the loss of autonomy municipalities face as a result of this change; rather than being provided with the choice to develop (or not develop) a voters

list, municipalities are now required to prepare a permanent electors register and enter into agreements with the Chief Electoral Officer. The RMA is also unsure of the necessity of this change, as we have not heard any concerns expressed by members about voters lists or electors registers.

From the rural municipal perspective, municipalities often have less staff and resources, are facing increased downloading of other costs and responsibilities, and have reduced tax revenues as a result of provincial changes. It is concerning that this amendment imposes a significant administrative burden on an already strained system and opens municipalities up to breaches of the LAEA as a result of their limited resources.

Previous Legislation

An elector must be permitted to vote if they appear on the list of electors, or if they make a statement they are eligible to vote at the voting station, produce identification as determined by the municipality's bylaw to determine their age, and validate their identity and address against that identification.

Another elector can vouch for an elector's age, residence, and identit

Amended Legislation

To vote in an election, a person must a) be on the permanent elector's register, as the power for a municipality to make a list of electors has been repealed, or b) produce a Canadian government issued piece of photo identification. This amendment also permits the use of photo identification with only a post office box number in Alberta as the address.

Municipal bylaws related to the number of pieces and type of identification required to vote are also repealed, and the provincial requirements are used in their place.

Further, another elector is now only permitted to vouch for someone's address.

RMA Analysis:

Restricting the scope of vouching to a person's address and not identity raises concerns that if an individual is not on the permanent electors register, that individual may not be able to vote. Taken as a whole, this change disenfranchises vulnerable segments of electors, especially those electors who may not have a government-issue photo ID and who do not appear on the permanent electors' register.

From a rural perspective, there is also an issue relating to the use of PO boxes as electors' commonly used addresses on their government issued identification. It is clearly more challenging for someone to vouch that their neighbour's PO box is a specific number than it would be to vouch for their neighbour's typical street address in an urban municipality with a grid-based road system.

Previous Legislation

The LAEA is silent on whether scrutineers can move between multiple voting stations.

Amended Legislation

Scrutineers will be able to perform their duties at more than one voting station

RMA Analysis:

Overall, this is not a significant change, and it provides some flexibility for candidates who may have a limited number of scrutineers.

However, this may also cause challenges for municipalities during elections as now the Deputy Returning Officer needs to verify that an individual who shows up at their voting station is a scrutineer for a candidate.

Previous Legislation

Electors who are unable to vote at an advance vote or at a voting station on election day due to physical disability, absence from the jurisdiction, or their involvement in the election may apply to vote by special ballot.

Amended Legislation

Any elector that is named in the permanent elector's register and who is unable to vote in an advance vote or at a voting station on election day may apply for a special ballot. If the elector is not in the permanent elector's register, they may complete a special ballot application, make a statement, include a copy of their government-issue photo identification that meets the requirements of s. 53(1)(b), and provide all of these things to the jurisdiction's returning officer.

Further, separate special ballot packages must be completed by each elector, and a witness is required to sign all special ballots. That witness must also be an elector. Only the elector may send their completed special ballot package.

RMA Analysis:

The RMA supports changes to the LAEA that increase access to democracy and provide more special ballots, as their use has been confirmed to increase participation in the democratic process.

However, the RMA is concerned with:

- the additional application requirements, especially for those electors not yet named in the permanent electors register;
- the extreme level of detail in the LAEA regarding the process by which a municipality's returning officer must receive and tabulate the special ballots, which could lead to inadvertent mishaps with tallying votes or that cause special ballots to be voided; and
- the requirement for a witness – who must also be an elector – to sign each special ballot.

The practical administrative burdens that result from these changes to special ballots should be evaluated after these rules are implemented to gauge their effectiveness and identify opportunities for efficiency.

Prohibition of Voting Machines (S. 84)

Previous Legislation

Local jurisdictions were able to make bylaws respecting the taking of elector's votes by the use of voting machine, vote recorders, or automated voting systems.

Amended Legislation

Local jurisdictions shall not provide for the taking or counting of votes using voting machines, vote recorders, automated voting systems or tabulators.

RMA Analysis:

The RMA fails to see the rationale behind this change and has several concerns. It poses a financial risk to those municipalities that have multi-year agreements with contractors supplying these technologies, and increases the administrative burden on municipalities greatly.

It also expands the potential for vote counters to potentially make mistakes or interfere with the counting of votes by hand, things that a non-partisan, unbiased computer program would likely not suffer from.

Finally, it will significantly extend the time between the close of polls and announcement of results, which could have the opposite intent of the change and actually increase public distrust of the process.

Previous Legislation

Returning officer may make a recount of the votes if a candidate, official agent, or scrutineer shows grounds that the returning officer considers reasonable for alleging the vote count result is inaccurate.

Amended Legislation

The old rules are repealed, and the returning officer must do a recount if there is a margin within 0.5% of the total votes in that jurisdiction.

Further, the application for a recount can only be made by the candidate with the second-highest number of votes or the highest insufficient number of votes, depending on how many offices are being filled in that election. This application may only be made to the returning officer within 48 hours after the election results are announced or posted, or within 44 hours of the close of voting stations.

RMA Analysis:

The RMA is supportive of this change as it increases the clarity around when a recount is required, and it may reduce the chances of the recount process being abused or misused. It also takes the determination of whether a recount is necessary out of the hands of the returning officer, a role that already has a litany of responsibilities and duties and provides a legislated requirement that is certain and clear.

Examination of Ballots (S. 108(2))

Previous Legislation

Any ballot is considered void and is not counted if it:

- lacks the initials of an officer,
- shows more than one vote cast,
- has anything written or marked which could identify the elector, or
- if the ballot is otherwise dealt with such that the elector can be identified.

Amended Legislation

The old requirements continue to apply, with the additions of:

- the ballot not being marked with an "X", and
- the ballot not having a vote recorded at all.

RMA Analysis:

The RMA does not understand the rationale for this change and believes it will bring an increased administrative burden to rural municipalities.

This amendment seems to be an administrative change that may cause otherwise legitimate ballots to be voided and not counted due to minor elector errors.

This does nothing to increase access to democracy or increase Albertans' faith in the electoral process, and only adds further requirements onto a municipality's election officers during the counting of votes.

Candidate Definition (S. 147.1)

Previous Legislation

There was no definition of candidate in Part 5.1 of the LAEA relating to Election Finances and Contributions Disclosure.

Amended Legislation

Candidates are now defined as individuals who have been nominated to run for election as a councillor or school board trustee, or individuals who intend to be nominated to run for election to those positions.

RMA Analysis:

The RMA supports changes to the LAEA insofar as they increase clarity around its interpretation. However, this is technically an expansion of the definition of "candidate" that is specific for the purposes of Part 5.1, Election Finances and Contributions Disclosure, and it is yet to be seen how this will impact candidates and elections.

Campaign Contributions (S. 147.2)

Previous Legislation

Only individuals ordinarily resident in Alberta may make contributions.

No prohibited organization or individual ordinarily resident outside of Alberta may make contributions.

Further, the limit on contributions was set at $5,000 to any candidate for election as a councillor and $5,000 to any candidate for election as a school board trustee.

Amended Legislation

In addition to contributions by individuals ordinarily resident in Alberta, contributions by a corporation other than a prohibited organization, by an Alberta trade union, or by an Alberta employee organization are now permitted.

In addition to prohibited organizations and individuals outside of Alberta, no trade union or employee organization other than Alberta unions or organization may make contributions.

Further, the limit on contributions is now:

- $5,000 in the aggregate to all councillor candidates in that municipality (per year for individuals, per campaign period for corporations/unions),
- $5,000 in the aggregate to all public school board trustee candidates in a school division (per year for individuals, per campaign period for corporations/unions), and
- $5,000 in the aggregate to all separate school board trustee candidates in a school division (per year for individuals, per campaign period for corporations/unions).

RMA Analysis:

While the changes to the wording of the Act enhance the clarity of campaign contribution requirements, the RMA is concerned about the cumulative impacts that the expansion of the campaign period combined with a lack of overall provincewide contribution limit on the ability of a small number of wealthy individuals to significantly impact municipal elections across the province.

Previous Legislation

There was no clarity in s. 147.1 about corporations being associated with one another.

Amended Legislation

Corporations that are associated with one another under section 256 of the Income Tax Act (Canada) shall be considered as a single corporation for the purposes of this Part, but in determining whether and at what time corporations are associated for the purposes of this Part, subsection 256(1) of the Income Tax Act (Canada) shall be read as though the words “at any time in the year” were struck out.

RMA Analysis:

The RMA supports changes to the LAEA as they increase clarity around corporations.

Previous Legislation

No person shall accept a contribution or incur a campaign expense unless they have been nominated as a candidate.

Amended Legislation

No individual or person acting for them can accept a contribution or incur a campaign expense unless the individual has given written notice of their nomination or their intent to be nominated to the relevant local jurisdiction.

Notice must include the candidate's full name, address, and contact information; address where records are maintained and where communications may be addressed; names and addresses of the financial institutions to be used by or on behalf of the individual as depositories for campaign contributions; and the names of the signing authorities for those depositories.

RMA Analysis:

Making written notice of an individual's nomination or intent to be nominated is required before accepting a campaign contribution may increase transparency and provide additional information to electors, but the RMA has some concerns about the implementation of this rule at the rural municipal level, as it adds another administrative burden for municipalities. This change also appears to align with the development of an ongoing campaign period; filing intent to nominate allows for candidates to collect campaign outside of the formal nomination period, which remains from January 1 in an election year until nomination day.

Further, changing the language from "no person" to "no individual or person acting for them" is seen as a clarifying amendment to ensure that a potential candidate's agent is not out accepting contributions prior to giving notice to the local jurisdiction – so they may be listed on the municipality's public register of candidates – of their candidate's intention to run.

The RMA infers that this is to address issues with candidate's agents accepting donations but needs to review the implementation of this change to be sure of its effect.

Register of Candidates (S. 147.221(1))

Previous Legislation

Local jurisdictions are not required to maintain a register of candidates.

Amended Legislation

Local jurisdictions must maintain a register of candidates that have given notice as above.

It must be made available on the jurisdiction's website until December 31 following the general election or 60 days following the by-election.

It must be redacted in the same way as a nomination paper or criminal record check.

RMA Analysis:

The RMA appreciates that this change brings additional transparency into local elections but is conscious that creating and maintaining a candidate register adds yet another administrative burden onto smaller rural municipalities with less personnel and resources.

Previous Legislation

The local jurisdiction must ensure that all disclosure statements are available to the public during regular business hours for a period of four years after the election.

Amended Legislation

The local jurisdiction must ensure that all disclosure statements are publicly available on the jurisdiction's website.

RMA Analysis:

The RMA supports changes that increase the transparency of elections and the democratic process, but has some concern that this will be a challenge for rural municipalities who have less resources and technological capabilities, and whose residents have less access to reliable high-speed internet.

This could also cause voter confusion during future elections when candidates seeking re-election or running again have multiple sets of disclosure statements on the website.

Rules Apply to Multiple Parties (S. 147.53)

Previous Legislation

The rules seemingly only apply to "candidates", defined as individuals nominated to run for election as a councillor or school board trustee.

Amended Legislation

The rules discussed in sections 147.4,and 147.52 continue to apply to an individual who:

- gave written notice under 147.22 but does not file a nomination or whose nomination is not accepted;
- withdraws as a candidate;
- is disqualified or becomes ineligible to be a candidate; or
- is not elected.

RMA Analysis:

This change clarifies that the rules apply to not only nominated candidates but also to other individuals involved in running for election.

The RMA supports changes to the LAEA insofar as they increase clarity around its interpretation.

Previous Legislation

The only parties who may commit an offence under this section are individuals, prohibited organizations and persons acting on their behalf, and candidates and persons acting on their behalf.

Amended Legislation

The parties who may commit an offence now also include corporations, trade unions, employee organizations, and persons acting on their behalf.

RMA Analysis:

The RMA interprets this change being made as a result of the expansion of what parties are able to make campaign contributions.

Previous Legislation

In addition to other offences:

- no person shall, during the hours when a voting station is open, canvass or solicit votes in a building with a voting station, or make any communication to an elector in a voting station about the election otherwise than through the deputy.
- when a voting station is located in a building containing a complex of interlocking offices, stores, or other facilities, the prohibition above only applies to the specific office, store, or facility of the building where the voting station is.

Amended Legislation

These rules are repealed.

RMA Analysis:

The RMA questions the basis for this change. Based on the RMA analysis, the two offences should remain in the MGA, and removing them is likely to upset existing democratic processes and cause issues at voting stations across the province.

As an example, many voting stations are in schools that have several “interlocking offices” or “other facilities.” The RMA interprets this change as permitting a candidate to potentially canvas for votes within the election area.

The RMA fails to see the rationale or logic behind this change and struggles to understand why these offences were repealed. The RMA has significant concerns about the impact this will have on established democratic and voting processes.

Municipal Political Parties and Slates of Candidates (S. 158.3,160.1,160.2)

Previous Legislation

There were no provisions in the LAEA regarding either the formation of or a ban on political parties at the municipal level.

Amended Legislation

"Local political party" is defined as an organization one of whose fundamental purposes is to participate in public affairs by endorsing one or more candidates in a local jurisdiction and supporting their election. "Slate" will be defined in the regulations when they are complete.

Local political parties shall not be a registered party in the Election Finances and Disclosure Act or the Canada Elections Act, a party or organization affiliated with either of the above, a slate, or a person or organization prescribed in the regulations.

The regulations may authorize the involvement of local political parties, slates, or both in local jurisdictions (municipalities), which will then be prevented from prohibiting or restricting the formation of parties or slates in local elections.

Councillors will not be required to join a slate or party and may run independently. Ballots will be required to list local parties that officially endorse candidates and a slate in which a candidate is a part.

The Lieutenant Governor in Council may make regulations designating organizations as prohibited organizations.

RMA Analysis:

The RMA does not support political parties at the municipal level or the related amendments formalizing municipal parties and slates of candidates contained in Bill 20.

This issue was raised by members in the RMA's Resolution 4-24S: Maintaining Non-Partisan Municipal Elections, and the RMA will continue to advocate against this change. However, as Bill 20 has been passed, the RMA will continue to work with members on monitoring the implementation of political parties at the local municipal level.

The RMA plans to participate in any engagement opportunities related to regulation development on this issue, emphasizing the need to prevent parties being used as a means to insert provincial or federal issues into local elections.

Election Advertising and Third-Party Advertising (S. 162, 163 (2.1), 167 (2.1))

Previous Legislation

The definition of election advertising is complex but is essentially limited to advertising messages that promote or oppose the election of a specific candidate.

Advertising contributions to any third party during an election advertising period is capped at $30,000 in the aggregate.

An individual making one or more contributions in excess of a limit prescribed by the new s. 147.2(3) is now grounds to be served an administrative penalty or reprimand by the Election Commissioner.

Amended Legislation

The definition of election advertising is expanded to include "the taking of a position on an issue that is the subject of a vote on a bylaw or question." The expanded definition also applies to canvassing or organizing events.

Persons may request to examine the register of third parties during regular business hours and in the presence of the returning officer, deputy, or secretary of the local jurisdiction or the Registrar.

Advertising contributions to any third party during an election advertising period is now capped at $5000 in the aggregate.

An entity making one or more contributions in excess of a limit prescribed by the new s. 147.2(3) is now grounds to be served an administrative penalty or reprimand by the Election Commissioner. This was formerly limited to individuals.

RMA Analysis:

Expanding the definition of election advertising to include "issues that are the subject of a vote on a bylaw or question" makes this a much more significant amendment than initially thought. Now, depending on how that term is defined or interpreted, advocacy efforts from specified individuals, corporations, or groups after May 1 in an election year could be construed as election advertising, carrying with it further requirements for disclosure of election advertising expenses and more rules to follow.

From the RMA's perspective, this appears to be an unnecessary broadening of election advertising rules. However, the RMA will need to see how this is implemented before taking a firm position on this change.

Further, municipalities providing the register of third-party advertisers to the public during business hours with the returning officer, deputy, or secretary present is another administrative burden that some rural municipalities will be ill-equipped to handle, from both a staffing perspective as well as a security perspective.