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### ***Local Authorities Election Act***

#### **Application of Part 5.1 Disclosure Requirements Where an Individual Ran in the 2010 General Election but not in the 2013 General Election**

The legislation under Part 5.1 of the *Local Authorities Election Act (LAEA)* requires candidates to prepare and file with the municipality a disclosure statement in the prescribed form <sup>1</sup> by March 1 following a general election unless they are specifically exempted under the self-funded campaign provisions.

AB Municipal Affairs has received a number of questions about the disclosure requirements where a candidate ran in the 2010 general election but not in the 2013 general election. The following comments outline the department's understanding of how the legislation may be applied in these circumstances. Municipalities should obtain independent legal advice on any specific situations within their municipality.

#### **Background**

The *LAEA* sets out two separate disclosure requirements related to campaign finances:

1. Campaign Disclosure Statement – This disclosure is required under *LAEA* 147.4(1) and applies to each campaign period of a candidate. As long as a person continues to run as a candidate in each general election, this is the only disclosure that is required.
2. Amended Disclosure Statement – This disclosure is required under *LAEA* 147.4(1.2) to show how a deficit is eliminated. This disclosure requirement only applies if a person ran as a candidate in the previous election but not in the following general election, and then only if the person reported a deficit in their Campaign Disclosure Statement at the end of the previous election.

For purposes of Part 5.1 of the *LAEA*, a candidate is defined <sup>2</sup> to be an individual who is nominated as a candidate for election, or an individual who intends to be nominated as a candidate and accepts campaign contributions or incurs campaign expenses.

Because of this broad definition, a person who does not file nomination papers for an election can still be subject to the campaign disclosure requirements under Part 5.1.

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### Campaign Disclosure Statement

The requirement to file a Campaign Disclosure Statement under *LAEA* section 147.4(1) applies to a candidate (as defined above) in an election.

The requirement to file a Campaign Disclosure Statement for the campaign period January 1, 2011 to December 31, 2013<sup>3</sup> only applies to an individual if they meet this definition of a candidate in the 2013 general election. If the person was a candidate in 2010 but was not a candidate in a subsequent election, there is no legislated requirement to file a Campaign Disclosure Statement for the campaign period ending December 31, 2013.

### Eliminating a Deficit and the Amended Disclosure Statement

As noted above, if an individual was a candidate in 2010 but was not a candidate in a subsequent election, they are not required to file another Campaign Disclosure Statement in 2014. However, if the 2010 candidate reported a deficit at the end of December 2010 and did not file nomination papers in a subsequent election, the deficit must be eliminated by April 21, 2014<sup>4</sup> and an Amended Disclosure Statement must be filed by May 21, 2014 showing any campaign contributions accepted and any other funds received to eliminate the deficit<sup>5</sup>. The Amended Disclosure Statement would cover the period from the end of the campaign period disclosed on the last Campaign Disclosure Statement (December 31, 2010) to the date the deficit was eliminated.

### Donation of a Surplus

If a 2010 candidate reported a surplus in their Campaign Disclosure Statement at the end of December 2010 and did not file nomination papers in a subsequent election, the requirement to donate the surplus<sup>6</sup> by April 21, 2014 will apply. The *LAEA* does not impose a disclosure requirement in this circumstance. In order to show that the surplus was appropriately disbursed, the individual may wish to consider voluntarily filing an Amended Disclosure Statement by May 21, 2014 similar to that required to show the elimination of a deficit. The voluntarily filed Amended Disclosure Statement would cover the period from the end of the campaign period disclosed on the last Campaign Disclosure Statement (December 31, 2010) to the date the surplus was disbursed.

### Funds Received After the Last Campaign Period

Where an individual who was a candidate in the 2010 general election did not file nomination papers in a subsequent election but accepted campaign contributions or incurred campaign expenses after December 31, 2010 in anticipation that they might run, the application of the disclosure requirements in *LAEA* section 147.4(1) is less clear. This is because the definition of a candidate (as noted above) depends in part on the intent of the individual. An individual in this situation may wish to seek independent legal advice on this matter. Alternatively, the individual may wish to consider voluntarily

filing a Campaign Disclosure Statement under *LAEA* 147.4(1) by March 1, 2014 for the period from the end of the campaign period disclosed on the last Campaign Disclosure Statement (December 31, 2010) to December 31, 2013.

Regardless of the individual's decisions with respect to their status as a candidate after 2010 for the purpose of disclosing under *LAEA* 147.4(1), the requirement to donate a surplus or eliminate a deficit under *LAEA* 147.4(1.1) by April 21, 2014 will apply if the individual did not file nomination papers in an election after 2010. If an Amended Disclosure Statement is required to show the elimination of a deficit, the statement should cover the period from the end of the campaign period disclosed on the last Campaign Disclosure Statement to the date the deficit was eliminated.

### **Registration of Candidates**

As a reminder, the new requirements contained in *LAEA* section 147.21 for the registration of candidates apply to campaign periods beginning on or after January 1, 2014. The application for registration is Form 3A in the *Local Authorities Election Forms Regulation*. Under the new legislation, no candidate may accept campaign contributions, including the funds of the candidate, unless the candidate is registered with the municipality in which the candidate intends to run.

In circumstances where an individual ran in the 2010 general election but did not file nomination papers for the 2013 general election, and where this individual receives funds between January 1, 2014 and April 21, 2014 to eliminate a deficit from a previous campaign, it is the department's opinion that the registration requirements under *LAEA* section 147.21<sup>7</sup> do not apply unless the individual intends on running in another municipal election after 2013.

Municipalities will be required to maintain a register of candidates in relation to each election and shall register any candidate who is eligible to be nominated at the time of registration (based on the declaration made by the individual in the application form) and who files the application with the municipality. The form of the register is at the discretion of the municipality.

### **Notes**

<sup>1</sup> Form 21 in the *Local Authorities Election Forms Regulation*

<sup>2</sup> *LAEA* section 147.1(1)(d)

<sup>3</sup> As defined in *LAEA* section 147.1(1)(c)(i)

<sup>4</sup> As required by *LAEA* section 147.4(1.1)(b)

<sup>5</sup> As required by *LAEA* section 147.4(1.2)

<sup>6</sup> In accordance with *LAEA* section 147.4(1.1)(a)