

**DATE:** February 9, 2021

**TO:** Board of Trustees

**FROM:** Grace Cooke, General Counsel

**SUBJECT:** Special School Tax Levy Plebiscite Process  
(Response to Request for Information #90)

**ORIGINATOR:** Karen Mills, Director Board and Superintendent Relations

**REFERENCE:** December 8, 2020 Caucus Committee meeting (Trustee Janz)  
[\(Education Act, Local Authorities Election Act, Petitions and Public Notices Regulation, Special School Tax Levy Plebiscite Regulation\)](#)

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**ISSUE**

Trustee Janz asked for the following information at the December 8, 2020, Caucus meeting, with the request that the answer be provided at a public Board meeting:

*Municipal Plebiscite:*

*Could the Administration provide a report outlining the opportunity and mechanism in accordance with section 172 of the Education Act (Special School Tax Levy) (Page 122).*

- 1) If this tool were passed during the 2021 municipal election, how much funding could be raised and how much would that cost be per month per household?*
- 2) Could a lesser amount be raised, such as a specific dollar amount?*

**BACKGROUND**Alberta Government Information Package

In December 2020, the Government of Alberta released its [Special School Tax Levy Information Package](#) which included a succinct overview of the process for school boards considering a special school tax levy:

1. The public or separate school board develops a business case to show why the levy is needed, how much will be needed and how long it will be imposed for.
2. The school board contacts Municipal Affairs for contact information for the municipalities that might be affected by the levy and to figure out the potential impact it could have on each municipality.
3. The school board contacts the potentially affected municipalities in its geographical boundaries with the levy amount that could be applied. This lets each municipality calculate its local Special School Tax Levy rates to support the business case.
4. The school board must give at least 60 days' notice to the eligible electors in its division before considering the resolution for a plebiscite. The notice states the board's intention to

meet and consider the resolution. To meet the 60-day deadline, the notice would have to be scheduled before mid-June. When calculating all dates specific to giving notice to eligible electors, the dates must be based on the actual date the general election is going to be held.

5. At least 60 days before the general election, the board must pass a resolution to hold a plebiscite at a general public meeting of the board. It must also notify the Minister and respective returning officer(s). To meet this deadline, the meeting would have to be scheduled in mid-August.
6. During the 30 days immediately before the general election, the school board is required to provide the information in the Special School Tax Levy Plebiscite Public Notice Form by public notice and notify the Minister and respective returning officer(s). The notice includes:
  - a yearly estimate of the amount that would be raised by the Special School Tax Levy;
  - the number of years the levy would apply for; and
  - the purpose of the levy.

To meet the deadline, the notice would have to be made in mid-September.

7. The plebiscite is held on the same day as the general election unless it's withdrawn before then. When a vote on the plebiscite goes forward, the returning officer(s) forwards a signed statement showing the number of votes for and against the plebiscite to the secretary and the Deputy Ministers of Alberta Education and Municipal Affairs.
8. If more than 50 per cent of the electors vote "yes" on the Special School Tax Levy, the levy will be imposed on the declared property (or undeclared in the case of individually owned property) located inside the school board's geographical boundaries.

In terms of initial steps by the Board to commence this process, a trustee would first need to serve notice of motion to give notice that at an identified Board meeting, the Board will consider a resolution to hold a plebiscite related to a special school tax levy in conjunction with the October 18, 2021 general election.

With respect to how much funding could be raised, section 174(1) of the *Education Act* authorizes **up to** 3% of the budget of the board for the year in which the resolution is passed. Consequently, as the Division's operating budget for the year is \$1,195,961,600, 3% of the operating budget amounts to \$35,878,848. The legislation allows for a lesser amount to be raised. Section 174(2) provides that a special school tax levy may be approved for not more than a 4-year period ending on December 31 of the year of the next general election after the plebiscite. The affected municipality (i.e., City of Edmonton) would calculate and apply the local special school tax levy rate (ss. 160(1)(b) and 175(1) *Education Act*).

If a resolution authorizing a plebiscite is passed, in order to later withdraw the authority to hold the plebiscite, a resolution to that effect may be passed up to the date on which the plebiscite is to be held (s.172(5) *Education Act*).

If a special school tax levy is supported by the Division's electors, only the properties that are assessable for public school purposes would be subject to the levy (s.175(3) *Education Act*).

## Legislation

Section 172 of the *Education Act, S.A. 2012, c.E-0.3* and the Special School Tax Levy Plebiscite Regulation, AR 78/2019 set out the authority and process to add a question on the ballot of the next general election to impose a special school tax levy.

## *Education Act*

### **Plebiscite**

**172(1)** Subject to this section, a board may authorize the holding of a plebiscite to obtain the approval of the electors of the school division to impose a special school tax levy under this Division.

**(2)** A board that intends to hold a plebiscite referred to in subsection (1)

(a) shall not less than 60 days before the board intends to consider the resolution authorizing the holding of a plebiscite referred to in subsection (1), give public notice, in accordance with the regulations, of its intention, and

(b) must at least 60 days before election day in a year in which a general election will be held under the *Local Authorities Election Act*, pass the resolution at a public meeting of the board.

**(3)** The resolution referred to in subsection (2) must include a statement respecting the purpose of the special school tax levy.

**(4)** The question that the plebiscite is to determine must be

(a) in accordance with the regulations, and

(b) included in the resolution referred to in subsection (2).

**(5)** A board, by resolution, may withdraw the authorization for the plebiscite under subsection (2) up to the date on which the plebiscite is to be held.

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### **Conduct of plebiscite**

**173(1)** A plebiscite under this Division must be conducted in conjunction with the next general election under the *Local Authorities Election Act* after the resolution is passed under section 172.

**(2)** The *Local Authorities Election Act* and the regulations under it apply to the plebiscite except as otherwise provided by this Act or the regulations under this Act.

- (3) The persons eligible to vote in a plebiscite are the persons eligible to vote at the general election for members of the board that passed the resolution.
- (4) The results of a plebiscite must be reported in accordance with the *Local Authorities Election Act*.

**Special school tax levy**

- 174(1)** No special school tax levy may be authorized by plebiscite if the amount to be raised by the special school tax levy in each year is more than 3% of the budget of the board for the year in which the resolution is passed.
- (2) A special school tax levy may be approved by a plebiscite for a period of not more than the 4-year period ending on December 31 of the year of the next general election under the *Local Authorities Election Act* after the plebiscite.
- (3) Money raised by a board by a special school tax levy must be used for the purpose referred to in the resolution.

**Assessment and requisition**

- 175(1)** If a majority of the ballots cast at a plebiscite under this Division vote in favour of a special school tax levy, the board may requisition municipalities in accordance with Division 3.
- (2) Subject to subsections (3) and (4), Divisions 2 and 3 apply to a special school tax levy.
- (3) Only the property of an individual that is assessable for public school purposes under section 146 or of a corporation or cooperative that has given notice under section 148 that all or a portion of its property is assessable for public school purposes is assessable for a special school tax levy by a board of a public school division.
- (4) Only the property of an individual that is assessable for separate school purposes under a notice under section 147 or of a corporation or cooperative that has given notice under section 148 that all or a portion of its property is assessable for separate school purposes is assessable for a special school tax levy by a board of a separate school division.

Special School Tax Levy Plebiscite Regulation**Date of public notice**

- 1** If a board passes a resolution authorizing a plebiscite under section 172 of the Act, the board must give public notice in accordance with the Petitions and Public Notices Regulation of the board's resolution during the 30 days immediately before the date on which the plebiscite is to be held.

**Content of public notice**

- 2** The public notice under section 1 must state

- (a) the amount per year the board estimates would be raised by the special school tax levy,
- (b) the number of years for which the special school tax levy would apply, and
- (c) the purpose for which the funds raised by the special school tax levy would be used by the board.

**Ballot**

- 3** A ballot used in a plebiscite authorized under section 172 of the Act must be in the form set out in the Schedule to this Regulation.

**KEY POINTS**

- The Special School Tax Levy Information Package published by the Government of Alberta provides an overview of the process for school boards considering such a levy which includes specific requirements regarding public notice of a board's consideration of a motion to proceed with such a plebiscite.
- Up to 3% of the Division's current operating budget (\$35,878,848) may be raised each year in a special school tax levy for no more than a 4-year period.
- The levy rates are calculated by the affected municipality.
- Only those properties that are assessable for public school purposes would be subject to a special school tax levy that is authorized by a vote of the electors on the plebiscite.
- Once a resolution is passed authorizing a plebiscite, if a board does not wish to proceed with the plebiscite, it must pass a resolution withdrawing the authority to hold the plebiscite and such a resolution may be made up to the date the plebiscite is to be held.

**ATTACHMENTS and APPENDICES**

ATTACHMENT I Special School Tax Levy Information Package, December 2020

MGC/cv