

DATE: September 7, 2021

TO: Board of Trustees

FROM: Darrel Robertson, Superintendent of Schools

SUBJECT: Information regarding plebiscite/referendum questions
(Response to Request for Information #105)

ORIGINATOR: Karen Mills, Director Board and Superintendent Relations

REFERENCE: [Education Act](#)
[Local Authorities Election Act](#)
[Municipal Government Act](#)

ISSUE

At the June 22, 2021 public Board meeting, Trustee Janz requested that Administration provide an outline of the Board's ability to put forward questions for a plebiscite or referendum, at a general election period or another time.

BACKGROUND

Section 7 of the *Local Authorities Election Act* states:

If this or any other Act provides for the submission of a bylaw or question to the electors for their assent or approval, the bylaw or question shall be submitted to a vote in accordance with this Act.

The *Municipal Government Act* under Section 236(1) states:

A council may provide for the submission of a question to be voted on by the electors on any matter over which the municipality has jurisdiction.

CURRENT SITUATION

The *Local Authorities Election Act* allows for the submission of a question to the electors by an authority on a subject that is within the jurisdiction of the legislation governing that authority. Section 236(1) of the *Municipal Government Act* gives municipal governments, such as Edmonton's City Council, their authority to submit a question to voters. The *Education Act*, which directs school boards, does not contain a comparable provision to Section 236 of the MGA.

Section 73 of the *Education Act* does contemplate votes on bylaws and questions and reads as follows:

Procedure for elections, etc.

73 All

- (a) general elections, by-elections, polls and plebiscites,
- (b) votes on bylaws or money bylaws, and
- (c) votes on any other matters or questions

held pursuant to this Act are to be governed by this Act and the *Local Authorities Election Act*.

The *Education Act* then expressly contemplate votes on questions being held in regards to imposing a special school tax (s 172) and in relation to the construction, purchase or lease of a non-school building (s 190).

Should a school board wish to put forth a question other than those outlined in the *Education Act*, they could ask another authority to do that only if that authority has jurisdiction in that area. In other words, a municipality could not submit an education-related question as they would not have jurisdiction over education matters.

The City's Chief Returning Officer has advised that if a school board wishes to submit a referendum question for a municipal election, it would need to submit it to the Chief Returning Officer, along with a legal opinion stating that the *Education Act* provides for a question to be added to the ballot and the question is within the jurisdiction of the school division.

The Chief Returning Officer also advised that while there is not a set deadline for question submission, submissions need to be made in time for the Chief Returning Officer to review and confirm that the question meets the criteria and, if it does, to order and print the voting materials. For the 2021 municipal election, the Chief Returning Officer asked that questions be submitted no later than July 9 for consideration for the October 18 election.

KEY POINTS

- Authorities may only put forth referendum questions on topics over which they have jurisdiction.
- School board jurisdiction is set out in the *Education Act*.
- Proposed referendum questions are submitted to the Chief Returning Officer.
- While there is not a set deadline for submissions, questions must be submitted in time for the Chief Returning Officer to review and confirm that they meet the criteria and, if they do, to order and print the voting materials.

KM:km