

Chapter 4

ELECTIONS

Reviewed January 2, 2009

Elections serve many purposes in the operation of municipal government. An election is the act of selecting persons to fill public offices or deciding public issues by those having the right to participate in the decision process. It is often said that municipal government is the form of government that is closest to the people, and it is through the election process that the people evaluate the performance of their local officials.

There are two basic types of elections -- primary elections and general elections.

Under Louisiana law, primary and general elections are held for the selection of officers to regular terms of office as provided by law.

Special primary and general elections are held to fill a vacancy in an office due to a resignation, a retirement, the death of the incumbent, or the conviction of a felony committed by the incumbent and his subsequent removal from office. Elections held for the recall of the incumbent and proposition elections are considered special general elections.

Because a municipality has no inherent power to hold an election, state law must authorize the holding and conduct of a municipal election. All municipal elections must be conducted in accordance with the state's Election Code found in Title 18 of the *Louisiana Revised Statutes*.

TYPES OF ELECTIONS

Primary and General Elections. In Lawrason Act municipalities, the mayor, board of aldermen, and chief of police (if it is an elected position) are elected for four-year terms [R.S. 18:383].

Special Primary and General Elections. A vacancy in the office of mayor, alderman, or chief of police (if it is an elected position) must be filled by election if the unexpired term exceeds one year (R.S. 18:602).

Vacancy in Office. The procedure for filling a vacancy in a municipal elected office is as follows:

- The elected official who is resigning (or retiring) submits a written, notarized letter to the secretary of state. It may contain a prospective date.
- The secretary of state then transmits this notice of resignation to the governing authority.
- The resignation becomes irrevocable when it is received by the secretary of state.
- The governing body then has 10 days from the occurrence of the vacancy caused by a resignation, retirement, death, or removal from office to appoint someone to fill the vacancy. If there is more than one year remaining in the term, the governing authority must issue a proclamation calling for a special election. The proclamation shall include the dates of the qualifying period for candidates and the dates on which the special primary and general elections shall be held. [R.S. 18:602].

Tax Elections. Municipalities in Louisiana are authorized to levy a sales and use tax not in excess of two-and-one-half percent (unless specifically authorized by legislation to levy more) to support municipal programs and operations. However, an ordinance imposing the tax shall be adopted by the governing authority of the incorporated municipality only after the question of the tax has been submitted to the qualified electors of the incorporated municipality at an election conducted in accordance with the general election laws of the state, and a majority of those voting in the election voted in favor of the proposition to impose such additional sales and use tax [R.S. 33:2711].

Tax elections are conducted in accordance with the provisions of the Election Code [R.S. 18:1281 et seq.]. Specifically:

- (1) The election is ordered by a resolution of the municipal governing authority which states the purpose of the election;
- (2) The resolution and proposition to be submitted to the voters must state the rate, object, and purpose for which the tax is to be levied or increased, and the number of years it is to run, if limited as to duration. A simple and unbiased, concise summary in easily understood language, setting forth the substance of the proposition, shall be placed at the beginning of the statement of the proposition in all capital letters;
- (3) Notice of the election must be published once a week for four consecutive weeks in the official journal of the municipality, and not less than 45 days nor more than 90 days shall intervene between the date of the first publication and the date of the election; and,

- (4) Written notice of the election must be transmitted to the secretary of state, commissioner of elections, and each clerk of court and registrar of voters in the affected area and received by the secretary of state on or before the 71st day prior to the election (if held on a primary election date) or on or before the 46th day prior to the election, if it is held on any other election date. The secretary of state must also receive a certificate by the Louisiana State Bond Commission that the commission has considered and approved the proposition.

QUALIFICATIONS OF THE LAWRASON ACT MAYOR AND BOARD OF ALDERMEN

The mayor and members of the board of aldermen each shall be an elector (a registered voter) of the municipality who at the time of qualification as a candidate for the office of mayor or member of the board of aldermen shall have been domiciled and actually resided for at least the immediately preceding year in the municipality. In addition, aldermen elected from wards must be residents of their respective wards. [R.S. 33:385].

For a further reading on this matter, please consult the preceding chapter which includes the Lawrason Act.