

立法會
Legislative Council

Ref : CB2/BC/1/05

LC Paper No. CB(2)1698/05-06
(These minutes have been seen
by the Administration)

**Bills Committee on Chief Executive Election and Legislative Council Election
(Miscellaneous Amendments) Bill 2006**

**Minutes of the first meeting
held on Friday, 17 March 2006 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Howard YOUNG, SBS, JP (Chairman)
Hon LI Kwok-ying, MH (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Jasper TSANG Yok-sing, GBS, JP
Dr Hon YEUNG Sum
Hon LAU Kong-wah, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Daniel LAM Wai-keung, BBS, JP
Hon MA Lik, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

Members absent : Hon WONG Yung-kan, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon LEE Wing-tat
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS
Hon Patrick LAU Sau-shing, SBS, JP

Public Officers attending : Item II
Mr Stephen LAM
Secretary for Constitutional Affairs

Mr Joseph LAI
Deputy Secretary for Constitutional Affairs (1)

Ms Joyce HO
Principal Assistant Secretary for Constitutional Affairs
(Special Duties)

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting &
Administration)

Mr Alan CHONG
Government Counsel

Clerk in attendance : Mrs Percy MA
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Election of Chairman/Deputy Chairman

Mr Howard YOUNG and Mr LI Kwok-ying were elected Chairman and Deputy Chairman of the Bills Committee respectively.

II. Meeting with the Administration

(LC Paper No. CB(3)400/05-06 – The Bill

CAB C5/1 – The Legislative Council Brief on the Bill

LS43/05-06 – The Legal Service Division Report

LC Paper No. CB(2)1433/05-06(01) – Marked-up copy of the Bill

LC Paper No. CB(2)1426/05-06(02) – Background Brief prepared by the Legislative Council Secretariat)

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).
3. On some members' proposal that an upper limit should be imposed on the number of subscribers for nominating candidates in the Chief Executive (CE), the Administration was requested to provide –

- (a) information on overseas practices; and
- (b) the Administration's view on whether the proposal would contravene the Basic Law.

(Post-meeting note : The Administration's response was issued to members vide LC Paper No. CB(2) 1563/05-06 (01) on 29 March 2006)

4. Some members indicated that they might move Committee Stage amendments (CSAs) as follows –

- (a) expanding the electorate of the Election Committee;
- (b) abolishing the existing statutory requirement that CE should relinquish his political affiliation; and
- (c) imposing an upper limit on the number of subscribers required for nominating candidates for the office of CE.

5. In response to members, Senior Assistant Legal Adviser 2 advised members that whether the CSAs to be proposed by members were within the scope of the Bill would depend on the wording of the CSAs and their relationship with provisions of the Bill. It was for the President of the Legislative Council to make a ruling on whether proposed CSA could be moved based on the principles set out in Rule 57(4) and 57(6) of the Rules of Procedure of the Legislative Council.

III. Any other business

Meeting schedule

6. Members agreed that future meetings of the Bills Committee would be held as follows –

- (a) 21 March 2006 at 4:30 pm;
- (b) 23 March 2006 at 8:30 am;
- (c) 30 March 2006 after Chief Executive's Question and Answer Session;

(d) 1 April 2006 at 9:00 am; and

(e) 3 April 2006 at 4:30 pm.

(Post-meeting note : A meeting schedule for the Bills Committee was issued to members vide LC Paper No. CB(2)1462/05-06 on 18 March 2006.)

Public consultation on the Bill

7. The Bills Committee agreed that the meeting to be held on 1 April 2006 would be reserved for meeting deputations. In line with the usual practice, the Secretariat would issue press releases, post an invitation for submissions on the LegCo website, and issue invitation letters to the 18 District Councils.

8. The meeting ended at 6:20 pm.

Council Business Division 2
Legislative Council Secretariat
11 April 2006

**Proceedings of the first meeting of the Bills Committee on
Chief Executive Election and Legislative Council Election
(Miscellaneous Amendments) Bill 2006
on Friday, 17 March 2006 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 - 000547	Mr James TIEN Mr Abraham SHEK Mr TAM Yiu-chung Mr Howard YOUNG Mr Jasper TSANG Mr LI Kwok-ying	Election of Chairman and Deputy Chairman	
000548 - 001016	Admin Chairman	Briefing on the Bill by the Administration	
001017 - 002226	Mr CHEUNG Man-kwong Admin Chairman	Proposal to impose an upper limit on the number of subscribers required for nominating candidates for the office of the Chief Executive (CE)	
002227 - 003112	Mr LAU Kong-wah Admin Chairman	<p>The Administration's advice that the maximum rounds of election that could be conducted before the expiry of the term of office of the incumbent CE on 30 June 2007 was three</p> <p>Proposal to provide finality for electoral arrangements if the same candidate was the only candidate at the close of the third round of nominations in an election</p> <p>The Administration's reasons for not introducing a "finality" provision</p> <p>Acting arrangement in the event that the third term CE was not elected before 1 July 2007, i.e. CE's duties would be assumed by the Chief Secretary for Administration, Financial Secretary and the Secretary for Justice in this order of precedence under Article 53(2) of the Basic Law (BL);</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
003113 - 004344	Mr CHIM Pui-chung Admin Chairman	<p>Arrangement to protect secrecy of votes at a CE election</p> <p>Overlapping membership of the Election Committee (EC) and discussion on whether an EC comprising less than 800 members would breach the Basic Law</p> <p>The Administration's proposal to amend the Chief Executive Election Ordinance to provide that a new CE returned in a by-election could only serve for one more term after expiry of the remainder term</p> <p>Mr CHIM's view that the proposal would contravene the Basic Law as the power to interpret the Basic Law vested with the Standing Committee of National People's Congress</p>	
004345 - 005207	Chairman Dr YEUNG Sum Admin	<p>Democratic Party's position and the Administration's response on the following issues –</p> <p>(a) imposing an upper limit on the number of subscribers required for nominating candidates for the office of CE; and</p> <p>(b) abolishing the existing statutory requirement that CE should relinquish his political affiliation</p>	
005208 - 005628	Mr TAM Yiu-chung Admin Chairman	<p>Views on need to impose an upper limit on the number of subscribers required for nominating candidates for the office of CE</p> <p>Measures to protect secrecy of votes at a CE election</p>	
005629 - 005859	Mr MA Lik Admin Chairman	<p>On the proposal to impose an upper limit on the number of subscribers required for nominating candidates for the office of CE, the Administration was requested to provide –</p> <p>(a) the Administration's view on whether the proposal would contravene the Basic Law; and</p> <p>(b) information on overseas practices</p>	Admin to provide the requested information

Time Marker	Speaker(s)	Subject(s)	Action required
005900 - 010859	Mr Ronny TONG Admin Chairman	<p>Proposal to expand the electorate base of the Election Committee</p> <p>The introduction of a “finality” provision in the electoral process or an upper limit on the number of subscribers required for nominating candidates for the office of CE would address problems such as the appointment of principal officials (POs) and members of the Executive Council (ExCo) in the event that a candidate could not be returned as the third term CE before 1 July 2007</p> <p>The Administration’s advice that –</p> <ul style="list-style-type: none"> (a) in the event that the office of CE became vacant after 1 July 2007, CE’s duties would be assumed by the Chief Secretary for Administration, Financial Secretary and the Secretary for Justice in this order of precedence under BL 53(2); (b) acting CE would re-appoint incumbent ExCo Members so that ExCo would continue to function before the new CE assumed office; (c) POs were nominated by CE for appointment by the Central People’s Government (CPG), and POs would only be removed by CPG as the Basic Law had not prescribed the term of office of POs; and (d) imposing an upper limit on the number of subscribers required for nominating candidates for the office of CE would not necessarily lead to a finality in the electoral process 	
010900 - 011312	Mr Jasper TSANG Admin Chairman	<p>Mr TSANG’s view that no arrangement could ensure finality to the electoral process</p> <p>Application of the acting arrangement under BL 53(2) if a CE was not elected within six months after a vacancy occurred</p> <p>The Administration’s advice that in the event that a new CE was elected after 1 July 2007, the end date of the term of office of CE would remain to be 30 June 2012</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
011313 - 012529	Mr CHEUNG Man-kwong Admin Chairman	Transitional arrangements regarding the employment of POs appointed by the second term CE in the event that the third term CE was not elected before 1 July 2007	
012530 - 013223	Mr Ronny TONG Admin Chairman SALA2 Admin	<p>Consequences of not electing a CE within six months in accordance with BL 53(2)</p> <p>Concern about the need to ensure finality in the case of a CE by-election</p> <p>The Administration's advice that –</p> <ul style="list-style-type: none"> (a) the maximum rounds of election that could be carried out for a full term CE was seven; (b) the maximum rounds of election that could be carried out in a CE by-election was two; and (c) the chance that no candidate was returned after successive rounds of election should be slim 	
013224 - 013428	Chairman Admin	Legislative timetable for the Bill	
013429 - 014111	Dr YEUNG Sum Chairman Admin SALA2 Mr Ronny TONG	<p>Scope of the Bill</p> <p>Some members indicated that they might move Committee Stage amendments (CSAs) on the following issues –</p> <ul style="list-style-type: none"> (a) expanding the electorate base of the Election Committee; (b) abolishing the existing statutory requirement that CE should relinquish his political affiliation; and (c) imposing an upper limit on the number of subscribers required for nominating candidates for the office of CE <p>SALA2's advice on the principles in determining whether proposed CSAs could be moved</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
014112 - 015200	Chairman Admin Dr YEUNG Sum Mr TAM Yiu-chung Mr James TIEN	Date of next meeting and schedule for future meetings Invitation of the public to give views on the Bill at the meeting on 1 April 2006	Secretariat to post notice on website, issue press releases, and send invitation letters to the 18 District Councils

Council Business Division 2
Legislative Council Secretariat
11 April 2006