

立法會
Legislative Council

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**Report of the Bills Committee on
District Councils (Amendment) Bill 2013**

Purpose

This paper reports on the deliberations of the Bills Committee on District Councils (Amendment) Bill 2013.

Background

Composition of District Councils ("DCs")

2. The District Councils Ordinance ("DCO") (Cap. 547) provides for the number, composition and functions of DCs. Section 9(1) of DCO stipulates that a DC is to consist of –

- (a) elected members;
- (b) appointed members; and
- (c) ex-officio members, if it is a DC established for a District in which there is one or more Rural Committees ("RC"), with the Chairman of each RC serving as ex-officio member(s) of the DC while holding office as Chairman of RC.

3. Section 11(1) of DCO provides that the Chief Executive ("CE") may appoint as members of a DC, the number of which should not exceed the number specified in Schedule 3 to DCO. In addition, Schedule 3 also provides for the number of elected members and ex officio members of each DC.

4. On 1 July 1997, 18 Provisional District Boards with appointed members¹ were established to replace the former District Boards as a transitional arrangement. The first term of DCs of the Hong Kong Special Administrative

¹ In 1994, all appointed seats in the former District Boards were abolished. The appointed DC seats were restored on 1 July 1997 when the 18 Provisional District Boards were established.

Region was established on 1 January 2000. The composition of the first term to the third term of DCs is at **Appendix I**.

5. The current term of DCs (the fourth term) started on 1 January 2012 and has 507 members, including 412 elected, 68 appointed and 27 ex officio members.

Proposal for the abolition of the DC appointment system

6. In late 2005, when the Administration put forward the package of proposals concerning the methods for selecting CE in 2007 and for forming the Legislative Council ("LegCo") in 2008, it was made clear that the appointed seats of DCs would be abolished in phases subject to the passage of the package of proposals by LegCo. As the package eventually did not receive the two-thirds majority support of LegCo and could not be passed, the proposal on phased abolition of DC appointed seats had not been proceeded with.

7. In 2010, the Administration put forth a constitutional reform package which proposed amendments to the methods for selecting CE and for forming LegCo in 2012. On 21 June 2010, the then-CE announced the acceptance of the "one-person-two-votes" proposal and undertook to put forth proposals for the abolition of the DC appointment system for consultation with LegCo and the public. In September 2011, the Administration announced that the DC appointment system would be abolished in phases, and as a first step, reduced the number of the appointed members for the fourth term DCs commencing on 1 January 2012 by one-third to 68 seats. The composition of the fourth term of DCs is at **Appendix II**.

8. For the remaining 68 appointed seats, the Administration issued the Consultation Paper on the DC Appointment System in February 2012 for a two-month public consultation as to whether the remaining appointed seats should be abolished over one term or two terms, in which the Administration stated that its inclination was to abolish them over one term. On 26 June 2012, the Administration issued the Consultation Report on the DC Appointment System, reporting that the views received and the opinion polls conducted indicated that the community supported the abolition of all DC appointed seats over one term.

9. The proposed abolition of the DC appointed seats is included in paragraph 191 of the 2013 Policy Address delivered by CE on 16 January 2013, which states that the Administration will amend the legislation as soon as possible to abolish all DC appointed seats from 2016 onwards.

The District Councils (Amendment) Bill 2013 ("the Bill")

10. The Bill was introduced into LegCo on 20 February 2013. It proposes amendments to DCO and other relevant subsidiary legislation to abolish the system of appointing members to DCs by CE with effect from 1 January 2016, i.e. the commencement date of the fifth term of office of DCs.

The Bills Committee

11. At the House Committee meeting on 22 February 2013, a Bills Committee was formed to scrutinize the Bill. The membership list of the Bills Committee is at **Appendix III**.

12. Under the chairmanship of Hon IP Kwok-him, the Bills Committee has held three meetings and received views from the public at one of the meetings. A list of the deputations and individuals who have given views to the Bills Committee is at **Appendix IV**.

Deliberations of the Bill Committee

13. Members in general have expressed support for the abolition of all DC appointed seats with effect from 1 January 2016. Some members who support the proposal consider that DCs should comprise all directly elected members. Some other members consider that the appointed members have also made significant contributions to the work of DCs, but they support the proposed abolition as it has the support of the public and ties in with the constitutional development in Hong Kong. In the course of scrutiny of the Bill, members have expressed concerns on the impact of the proposed abolition of the appointed seats on the operation of DCs, and their ex officio membership.

Impact on the operation of DCs

14. Some members have expressed concern that with the abolition of all DC appointed seats, DCs with a small elected membership (e.g. Wan Chai DC) may have difficulty in maintaining effective operation and the provision of services to the public in the districts concerned may be affected. They have asked whether the Administration would consider increasing the number of elected seats correspondingly for these DCs when their appointed seats are abolished, and whether the proposed abolition would entail a review of the boundaries of the DC constituency areas ("DCCAs") concerned.

15. The Administration has advised that the number of elected seats and its increase is generally linked to the population. Currently, the number of elected

seats is based on a population quota² (now stands at 17 282). The Administration has informed the Bills Committee that the Planning Department has already provided the Constitutional and Mainland Affairs Bureau with the latest population distribution projections for review of the number of DC elected seats. On the basis of the population distribution projections, the Administration would work out the number of elected seats for each DC taking into account the population quota and other relevant considerations. According to the Administration, if the review outcome recommends changes to be made to the number of elected seats (e.g. revision in the number of elected seats), DCO would be amended accordingly if required in another legislative exercise. Pursuant to section 8 of DCO, the CE in Council may, subject to the approval of LegCo, amend Schedule 3 (where the number of elected seats for each DC is stipulated) to DCO by order published in the Gazette. The Electoral Affairs Commission will then take into account the latest number of elected seats for each DC in its demarcation of DCCAs for the DC election in 2015. The Administration has informed the Bills Committee that it will revert to the Panel on Constitutional Affairs on the review of the number of elected seats for the fifth term DCs at the Panel meeting on 20 May 2013.

16. The Bills Committee has noted that the scope of the Bill specifically deals with the abolition of the system of DC appointed members by repealing all references to the appointed members in DCO, and introducing consequential amendments to relevant subsidiary legislation to remove references to those provisions of DCO that will be repealed by the Bill upon its enactment. Provisions in DCO concerning elected members and ex officio members remain unchanged.

17. The Bills Committee has also noted that the implementation of the proposal to abolish all the 68 appointed seats with effect from 1 January 2016 will bring about an estimated annual saving of about \$37 million to \$43 million for honorarium and other expenses, and an additional saving of \$11 million for end-of-term gratuity. In view of the estimated saving, some members have suggested that the Administration should allocate additional resources to strengthen the manpower of the secretariats of the respective DCs to enhance support for DC operation. Some members have suggested that consideration should be given to providing DCs with independent secretariats that can provide DCs with more professional services without having to rely on the support provided by the Home Affairs Department. The Administration has explained that matters relating to support to DC operation are under the purview of the

² Section 17(1)(b) of the Electoral Affairs Commission Ordinance (Cap. 541) stipulates that the population quota means the total population of Hong Kong divided by the total number of elected members to be returned in the DC ordinary election.

Home Affairs Bureau, and issues relating to the manpower of DC secretariats should be followed up at meetings of the Panel on Home Affairs.

Ex officio membership of DCs

18. Some members consider that the ex officio seats in DCs should also be abolished in the light of democratic development so that DCs would comprise all directly elected members. Some other members, however, consider that the public have diverse views on the matter and no consensus has been reached yet. The Administration has explained that the 27 ex officio members in various New Territories DCs are RC Chairmen who have individually gone through the relevant election procedure to become ex officio members under DCO. Moreover, public opinions differ on whether to retain the ex officio seats in DCs, and individuals and organizations representing residents of the New Territories support the retention of ex officio seats and strongly object to their abolition. On these bases, the Administration has no plan at present to abolish the ex officio seats in DCs.

19. Some members have suggested that the Administration should consider reviewing the name of "ex officio members" as it does not reflect the fact that the RC Chairman, who is the ex officio member under DCO, has also gone through the election procedure. These members have asked whether consideration would be given to changing the name to be "indirectly-elected members" so as to avoid misunderstanding by the public that the ex officio members are appointed by the Government without going through any election. The Administration has explained that the name of "ex officio members" should be considered in the context of an overall review of the ex officio membership of DCs. The Administration considers it necessary to continue to listen to the views of the public in this regard. In this connection, some members have requested the Administration to commence review of the ex officio membership of DCs as early as possible, including whether the ex officio seats should be abolished and how to ensure transparency of the process of returning these ex officio members.

Resumption of Second Reading debate

20. The Bills Committee supports the resumption of the Second Reading debate on the Bill at the Council meeting of 15 May 2013.

Committee stage amendments

21. The Administration and the Bills Committee have not proposed any Committee stage amendment to the Bill.

Consultation with the House Committee

22. The Bills Committee reported its deliberations to the House Committee on 3 May 2013.

Council Business Division 2
Legislative Council Secretariat
8 May 2013

Number of elected, appointed and ex officio members from the first term to the third term of the DCs

| District Council | No. of seats in first term (2000-2003) | | | No. of seats in second term (2004-2007) | | | No. of seats in third term (2008-2011) | | |
|------------------------|-------------------------------------------|------------|------------|--------------------------------------------|------------|------------|-------------------------------------------|------------|------------|
| | Elected | Appointed | Ex officio | Elected | Appointed | Ex officio | Elected | Appointed | Ex officio |
| 1. Central and Western | 15 | 4 | - | 15 | 4 | - | 15 | 4 | - |
| 2. Eastern | 37 | 9 | - | 37 | 9 | - | 37 | 9 | - |
| 3. Kowloon City | 22 | 5 | - | 22 | 5 | - | 22 | 5 | - |
| 4. Kwun Tong | 34 | 8 | - | 34 | 8 | - | 34 | 8 | - |
| 5. Sham Shui Po | 21 | 5 | - | 21 | 5 | - | 21 | 5 | - |
| 6. Southern | 17 | 4 | - | 17 | 4 | - | 17 | 4 | - |
| 7. Wan Chai | 11 | 3 | - | 11 | 3 | - | 11 | 3 | - |
| 8. Wong Tai Sin | 25 | 6 | - | 25 | 6 | - | 25 | 6 | - |
| 9. Yau Tsim Mong | 16 | 4 | - | 16 | 4 | - | 16 | 4 | - |
| 10. Islands | 7 | 4 | 8 | 8 | 4 | 8 | 10 | 4 | 8 |
| 11. Kwai Tsing | 28 | 7 | 1 | 28 | 7 | 1 | 28 | 7 | 1 |
| 12. North | 16 | 5 | 4 | 16 | 5 | 4 | 16 | 5 | 4 |
| 13. Sai Kung | 17 | 5 | 2 | 20 | 5 | 2 | 23 | 5 | 2 |
| 14. Sha Tin | 36 | 9 | 1 | 36 | 9 | 1 | 36 | 9 | 1 |
| 15. Tai Po | 19 | 5 | 2 | 19 | 5 | 2 | 19 | 5 | 2 |
| 16. Tsuen Wan | 17 | 5 | 2 | 17 | 5 | 2 | 17 | 5 | 2 |
| 17. Tuen Mun | 29 | 7 | 1 | 29 | 7 | 1 | 29 | 7 | 1 |
| 18. Yuen Long | 23 | 7 | 6 | 29 | 7 | 6 | 29 | 7 | 6 |
| | 390 | 102 | 27 | 400 | 102 | 27 | 405 | 102 | 27 |

Appendix II

Number of elected, appointed and ex officio members for the fourth term of the DCs

| District Council | No. of Seats (2012-2015) | | |
|------------------------|--------------------------|-----------------|------------|
| | Elected | Appointed | Ex-officio |
| 1. Central and Western | 15 | 3 (-1) | - |
| 2. Eastern | 37 | 6 (-3) | - |
| 3. Kowloon City | 22 | 3 (-2) | - |
| 4. Kwun Tong | 35 | 5 (-3) | - |
| 5. Sham Shui Po | 21 | 3 (-2) | - |
| 6. Southern | 17 | 3 (-1) | - |
| 7. Wan Chai | 11 | 2 (-1) | - |
| 8. Wong Tai Sin | 25 | 4 (-2) | - |
| 9. Yau Tsim Mong | 17 | 3 (-1) | - |
| 10. Islands | 10 | 3 (-1) | 8 |
| 11. Kwai Tsing | 29 | 5 (-2) | 1 |
| 12. North | 17 | 3 (-2) | 4 |
| 13. Sai Kung | 24 | 3 (-2) | 2 |
| 14. Sha Tin | 36 | 6 (-3) | 1 |
| 15. Tai Po | 19 | 3 (-2) | 2 |
| 16. Tsuen Wan | 17 | 3 (-2) | 2 |
| 17. Tuen Mun | 29 | 5 (-2) | 1 |
| 18. Yuen Long | 31 | 5 (-2) | 6 |
| | 412 | 68 (-34) | 27 |

Note : Figures in brackets denote the number of reduced seats when compared with the third term of the DCs

Bills Committee on District Councils (Amendment) Bill 2013

Membership list

| | |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chairman | Hon IP Kwok-him, GBS, JP |
| Members | Hon Emily LAU Wai-hing, JP Hon Frederick FUNG Kin-kee, SBS, JP Hon Cyd HO Sau-lan Hon Starry LEE Wai-king, JP Dr Hon Priscilla LEUNG Mei-fun, JP Hon Paul TSE Wai-chun, JP Hon Alan LEONG Kah-kit, SC Hon CHAN Han-pan Dr Hon Kenneth CHAN Ka-lok Hon LEUNG Che-cheung, BBS, MH, JP Hon Alice MAK Mei-kuen, JP Dr Hon Elizabeth QUAT, JP Hon Christopher CHUNG Shu-kun, BBS, MH, JP Total : 14 Members |
| Clerk | Ms Joanne MAK |
| Legal Adviser | Mr Kelvin LEE |
| Date | 1 March 2013 |

《2013 年區議會(修訂)條例草案》委員會
Bills Committee on District Councils (Amendment) Bill 2013

曾向法案委員會表達意見的團體/個別人士名單
List of organizations/individuals which/who have
submitted views to the Bills Committee

| <u>名稱</u> | <u>Name</u> |
|-------------------|------------------------------------------------------------------|
| * 1. Dfsad Dfsa | Dfsad Dfsa |
| 2. 公民黨 | The Civic Party |
| 3. 民主建港協進聯盟 | Democratic Alliance for the Betterment and Progress of Hong Kong |
| 4. 民主黨 | Democratic Party |
| * 5. 東區區議會議員楊位醒先生 | Mr YEUNG Wai-sing, member of Eastern District Council |
| 6. 南區區議會議員區諾軒先生 | Mr AU Nok-hin, member of Southern District Council |
| * 7. 香港律師會 | Law Society of Hong Kong |
| 8. 起動香港 | Go! Hong Kong |
| 9. 馬鞍山居民聯席會議 | Joint Meeting of the Ma On Shan Residents |
| * 10. 創建香港 | Designing Hong Kong Limited |
| 11. 逸東社區網絡協會 | Yat Tung Community and Network Association |
| 12. 新民主同盟 | Neo Democrats |
| 13. 葵涌南居民聯會 | Kwai Chung South Resident Association |

* 只提交書面意見的團體/個別人士
Organizations/individuals which/who have submitted written views only