

立法會
Legislative Council

LC Paper No. CB(2)347/98-99

(These minutes have been
seen by the Administration)

Ref : CB2/BC/16/98

**Legislative Council Bills Committee on
Legislative Council (Amendment) Bill 1999**

**Minutes of 22nd meeting
held on Tuesday, 22 June 1999 at 10:45 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon Ronald ARCULLI, JP (Chairman)
Hon Cyd HO Sau-lan
Dr Hon Raymond HO Chung-tai, JP
Hon LEE Wing-tat
Hon NG Leung-sing
Hon CHEUNG Man-kwong
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Dr Hon LEONG Che-hung, JP
Hon SIN Chung-kai
Hon Howard YOUNG, JP
Hon YEUNG Sum
Hon YEUNG Yiu-chung
Hon LAU Kong-wah
Hon Mrs Miriam LAU Kin-yeet, JP
Dr Hon TANG Siu-tong, JP

Members Absent : Prof Hon NG Ching-fai
Hon LEE Kai-ming, JP
Hon Margaret NG
Hon Mrs Selina CHOW, JP
Hon MA Fung-kwok
Hon Christine LOH
Hon Bernard CHAN
Hon LEUNG Yiu-chung

Hon Gary CHENG Kai-nam
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon LAU Wong-fat, GBS, JP
Hon Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon TAM Yiu-chung, JP

Public Officers Attending : Mr Robin IP
Deputy Secretary for Constitutional Affairs

Miss Shirley YUNG
Principal Assistant Secretary for Constitutional Affairs (4)

Mr Bassanio SO
Principal Assistant Secretary for Constitutional Affairs (5)

Ms Phyllis KO
Acting Deputy Principal Government Counsel (Elections)

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2) 3

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Eleanor CHOW
Senior Assistant Secretary (2) 7

I. Administration's proposed amendments

(LC Paper Nos. CB(2) 2304/98-99(03), 2353/98-99(01), 2354/98-99, 2401/98-99(01) and LS 205/98-99)

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Members went through LC Paper No. CB(2) 2353/98-99(01) which set out the Administration's proposed amendments to the Bill. The Chairman suggested and members agreed that the meeting would only discuss the principles of the amendments and that the Legal service Division would assist in scrutinizing the text of the amendments.

Delineation of FC electorates

Transport functional constituency (FC)

2. Referring to Annex to LC Paper No. CB(2) 2304/98-99(03) concerning the Administration's responses to submissions and Committee Stage amendments (CSA) likely to be moved by Members relating to FCs, Mrs Miriam LAU said that she appreciated that some of her proposals to expand the electorates of the Transport FC had been accepted by the Administration. However, the reasons given by the Administration for accepting and rejecting proposals were inconsistent and contradictory. She had written to the Secretary for Constitutional Affairs expressing her discontent (LC Paper No. CB(2) 2354/98-99). She opined that a body which was representative in the relevant transport sector should be included as an electorate in the Transport FC, irrespective of whether it was a widely representative body or not. Quoting the Hong Kong Mid-Stream Operators Association as an example, she said that three out of nine of its members were eligible electors of the Transport FC. Although the other members were not large scale mid-stream operators, they should be included as a constituent of the Transport FC.

Adm

3. Principal Secretary for Constitutional Affairs (4) (PAS for CA(4)) replied that the Administration would consider the representativeness and importance of an organization in providing services for a transport sector and its role in representing the interest of that sector in deciding whether an organization should be included as an electorate of the Transport FC. She noted Mrs LAU's concerns and undertook to reconsider the matter.

Information Technology (IT) FC

4. Mr SIN Chung-kai said that the existing IT FC consisted of only 3 000 electors, although there were over 40 000 persons involved in IT business. The delineation of electorate of other professional constituencies was usually based on membership of those professions with recognized qualifications. However, the IT sector's professionalism placed emphasis on a person's creativity rather than his qualification and association with a body. He would propose CSAs to expand the electorates of the

IT FC to include those who had proven working experience in the business for a specified number of years and those who had acquired the relevant qualification from recognized tertiary institutions or vocational institutions. He would prepare the CSAs for members' consideration.

5. PAS for CA(4) responded that the existing delineation of electorates for the IT FC was widely accepted in the trade. The amendments to be proposed by Mr SIN must spelt out clearly the delineation of the new electorates to facilitate the Electoral Registration Officer to verify a person's eligibility to be registered in the IT FC.

Ex-officio membership of the Election Committee (EC)

6. Deputy Secretary for Constitutional Affairs (DS for CA) said that having considered members' views expressed at previous meetings, the Administration agreed to propose CSAs to provide for a mechanism for updating the ex-officio membership of EC. Under the arrangement, all LegCo Members and the Hong Kong Deputies to the National People's Congress (NPC) holding office on 30 June 2000 should be registered as ex-officio members of the EC. If the registered ex-officio members of the EC were not elected to the second term LegCo or the next term of the NPC, they should cease to be ex-officio members of the EC and they would be replaced by newly elected members.

7. Mr Howard YOUNG asked how the excess seats arising from overlapping of membership between the LegCo and the Hong Kong Deputies to the NPC would be dealt with under the proposed arrangement.

8. PAS for CA(4) responded that the 96 seats allocated to ex-officio members would remain intact. If there was any overlapping between the membership of the LegCo and the Hong Kong Deputies to the NPC, the ex-officio seats falling "vacant" would not be transferred to other subsectors of the EC. In response to Mr NG Leung-sing, DS for CA said that overlapping of ex-officio membership was not serious and therefore would not pose a problem to the composition of the EC. PAS for CA(4) supplemented that the number of overlapping seats of ex-officio members was 10 in the 1998 election, and the current number was four. On the question regarding the term of office of the Hong Kong Deputies to the NPC, PAS for CA(4) advised that they were elected in March 1998 for a term of five years.

9. The Chairman asked that in the event of a change of membership, whether the new member of EC had a right to choose between voting in the FC or EC in a by-election.

10. PAS for CA(4) explained that those ex-officio members who were registered FC electors would be allowed to choose to vote either in the FC or the EC in the 2000 LegCo election. Once they had made their choice, they would vote in the EC or FC

according to their choice if there were any by-elections in the future. When there were subsequent changes of the membership of the LegCo or the Hong Kong Deputies to the NPC, the newly elected members would have no choice in a by-election. If the newly elected member had voted in the FC during the general election, he could not choose to vote in the EC if there was a by-election. If he had not voted in the FC during the general election, he must vote in the EC if there was a by-election. The rationale was that an elector was only entitled to cast a maximum of two votes in a LegCo term. An ex-officio member would have a vote in the GC election, and a second vote in either the FC or EC election.

11. Miss Cyd HO criticized the arrangements of not allowing an ex-officio member who was not a registered FC elector to decline registration as a member of the EC as depriving his right to choose. DS for CA responded that it was not a question of right to choose, as ex-officio membership of the EC was provided for in the Basic Law. The Chairman said that a member of the EC still had the right to choose not to vote at an EC election.

12. DS for CA briefed members on the rest of the proposed amendments in the paper. Members did not raise any queries. The Chairman said that since most of the amendments proposed by the Administration was in response to the Bills Committee, the Bills Committee supported these amendments in principle.

II. Members' proposed amendments

13. The Chairman said that the Secretariat had not received any additional proposals other than those relating to FCs from Members. He advised members that at the last meeting, Mr Andrew WONG had indicated that he would move CSAs relating to the proportional representation system of the EC. He asked members whether they would propose other amendments that were not related to FCs.

14. Dr YEUNG Sum said that the Democratic Party would propose four amendments to the Bill. They were relating to -

- (a) direct election of all 60 Members;
- (b) "single seat, single vote" system for geographical constituency elections
- (c) "no canvassing day"; and
- (d) reimbursement of election expenses to candidates.

15. Referring to the preferential elimination system of voting for the six smallest FCs under which electors were required to indicate their choices of candidates in preferential order by arabic numerals, Mrs Miriam LAU asked the Administration to

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Column

respond to her earlier suggestion that ballot papers marked with a tick where there were only two candidates in an election should be accepted. DS for CA responded that the marking of ballot papers should be dealt with in the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation which was subject to negative vetting by the LegCo. He would reflect members' concerns to the Electoral Affairs Commission.

Adm

III. Date of next meeting

16. Having regard to the progress of this meeting, the Chairman suggested and members agreed that the next meeting originally scheduled for 23 June 1999 should be cancelled. The next meeting would be held on 28 June 1999 at 8:30 am to discuss the Administration's response to points raised by members at the last meeting on 17 June 1999 as well as the text of the Administration's CSAs. He requested the Administration to provide bilingual texts of CSAs by 1:00 pm on 25 June 1999. The Chairman advised members that the Bills Committee would report to the House Committee on 30 June 1999 and that the deadline for giving notice of CSAs was 5 July 1999.

Adm

17. The meeting ended at 12:07 pm.

Legislative Council Secretariat
9 November 1999