

Legislative Council

LC Paper No. LS 21/02-03

**Paper for the House Committee Meeting
on 22 November 2002**

**Legal Service Division Report on
Education Reorganization (Miscellaneous Amendments) Bill 2002**

I. SUMMARY

- 1. Objects of the Bill**
 - (a) To transfer the functions of the Director of Education (DE) to the Permanent Secretary for Education and Manpower (PSEM);
 - (b) To transfer the functions of the Education Department (ED) to the Education and Manpower Bureau (EMB); and
 - (c) To abolish the Board of Education (BoE).

- 2. Comments**
 - (a) References to DE and ED in various Ordinances and subsidiary legislation are repealed and substituted with PSEM and EMB respectively. Consequential amendments as well as saving and transitional provisions are made.
 - (b) Statutory provisions relating to BoE are repealed. BoE would be subsumed in Education Commission (EC) which would continue to function as a non-statutory body.
 - (c) The Administration has obtained the recommendation of the Establishment Subcommittee to the Finance Committee on the changes to the directorate structure on 20 November 2002 and intends to seek the approval of the Finance Committee in December 2002.
 - (d) The Bill proposes to come into operation on 1 January 2003.

- 3. Public Consultation**

ED staff representatives of departmental grades are generally receptive to the proposed merger of EMB and ED, and the chairmen of the school councils and three major teacher organizations support the proposal. EC and chairmen of the school councils represented on BoE support the proposed merger of EC and BoE.

- 4. Consultation with LegCo Panel(s)/ Committee(s)**

The policy aspects of the Bill were discussed at the meetings of the LegCo Panel on Education on 28 October and 18 November 2002.

- 5. Conclusion**

A further report will be issued after we receive clarification from the Administration on a technical point.

II. REPORT

Objects of the Bill

To amend the Education Ordinance (Cap. 279), its subsidiary legislation and other related Ordinances to -

- (a) transfer the functions of the Director of Education (DE) to the Permanent Secretary for Education and Manpower (PSEM);
- (b) transfer the functions of the Education Department (ED) to the Education and Manpower Bureau (EMB); and
- (c) abolish the Board of Education (BoE).

LegCo Brief Reference

2. EMBCR 6/2/3231/90 Pt. 3 issued by the Education and Manpower Bureau on 6 November 2002.

Date of First Reading

3. 20 November 2002.

Comments

4. The Administration proposes that EMB and ED be merged on 1 January 2003 and after the merger, EMB (the merged entity) would take charge of both the formulation and implementation of education policies. It is also proposed that BoE be subsumed in the Education Commission (EC).

Merger of the Education and Manpower Bureau and the Education Department

5. The Bill gives effect to the merger of EMB and ED by :
- (a) repealing references to DE in relevant Ordinances and substituting PSEM;
 - (b) repealing references to ED in relevant Ordinances and substituting EMB;
 - (c) reconstituting the corporation sole known as the "Director of Education" under the Education Scholarships Fund Ordinance (Cap. 1085) to a corporation sole known as the "Permanent Secretary for Education and Manpower";

- (d) reconstituting the corporation sole known as the "Director of Education Incorporated" under the Director of Education Incorporation Ordinance (Cap. 1098) to a corporation sole known as the "Permanent Secretary for Education and Manpower Incorporated";
- (e) repealing the power of the Chief Executive to appoint a public officer to serve as a member of the Hong Kong Examinations and Assessment Authority under the Hong Kong Examinations and Assessment Authority Ordinance (Cap. 261) (The public officer appointed used to be PSEM or his representative. The Bill proposes that PSEM would replace DE as a member of the Authority and the Administration believes that it is not necessary to have two representatives from EMB.);
- (f) repealing ED from Part I of Schedule 1 to The Ombudsman Ordinance (Cap. 397) (The Ombudsman Ordinance is applicable to EMB as it is part of the Government Secretariat); and
- (g) providing saving and transitional provisions for subparagraphs (a) to (d) above.

6. Members may refer to paragraphs 3 to 5 of the LegCo Brief for details of structure of EMB after merger and Annex B to the Brief for the proposed organization chart. The Administration has obtained the recommendation of the Establishment Subcommittee to the Finance Committee on the changes to the directorate structure on 20 November 2002 and intends to seek the approval of the Finance Committee in December 2002. The Bill proposes to come into operation on 1 January 2003.

Merger of Education Commission and the Board of Education

7. The Bill gives effect to the merger of EC and BoE by :

- (a) repealing sections 7 and 7A of the Education Ordinance; and
- (b) providing saving and transitional provisions.

8. The existing section 7 of the Education Ordinance provides that BoE may advise DE on educational matters. Members of BoE are appointed by the Chief Executive by notice in the Gazette and shall hold office for such period as may be specified in the notice. DE may nominate ED officers to attend the meetings of BoE and appoints an officer to be BoE's secretary. The existing section 7A provides for resignation of BoE members. According to the LegCo Brief, BoE has been established since 1920. Its terms of reference is at Annex C to the Brief.

9. According to the LegCo Brief, EC was set up in 1984 as a non-statutory body to advise the Government on education objectives and policies as well as to co-

ordinate advice on education at all levels. The existing and revised terms of reference of EC are at Annexes C and D to the LegCo Brief. The main differences of EC before and after the merger are highlighted in paragraphs 9 to 11 of the LegCo Brief. In addition, EC would no longer receive reports from the Government on the introduction and implementation of major education policies and initiatives.

10. Paragraph 12 of the LegCo Brief explains that there is no need to turn EC into a statutory body after it takes over the functions of BoE because EC has been functioning well as a non-statutory body and BoE does not play any executive function.

11. Members may refer to the Administration's paper to the LegCo Panel on Education (LC Paper No. CB(2)296/02-03(01) refers) for implementation details of the proposed merger. Relevant information such as the existing composition of EC and BoE, the proposed composition of the EC after the merger and the transitional measures are set out in that paper.

Public Consultation

12. According to the LegCo Brief, the staff representatives of departmental grades in ED are generally receptive to the proposed merger of EMB and ED. No adverse reactions have been detected from ED staff. The chairmen of the school councils and the three major teacher organizations support the proposal. EC and the chairmen of the school councils represented on BoE have been consulted and expressed support for the merger of EC and BoE.

Consultation with the LegCo Panel

13. The LegCo Panel on Education discussed the proposed two mergers at its meetings on 28 October and 18 November 2002. While Panel members were generally supportive of the proposed merger of EMB and ED and raised no objection in principle to the proposal of merging EC and BoE, Panel members had expressed several concerns.

14. On the proposed structure of EMB after merging with ED, some Panel members expressed concern that the autonomy of University Grants Committee (UGC)-funded tertiary institutions might be reduced as the future provision of associate and sub-degree programmes would come under the purview of both UGC and the new Manpower Development Committee, whereas at present they only came under the purview of UGC. Panel members also sought clarifications about the net saving in staff cost as well as the retionalisation of authority and responsibilities under the new structure.

15. Regarding the proposed merger of EC and BoE, Panel members expressed concern that the power of EC after the merger would be reduced and its status lowered. Some members also expressed strong dissatisfaction that there would

only be one, and at most two, teachers' representatives on the EC after the merger. Panel members stressed that it was important to incorporate the views of frontline teachers, education professionals and the public in policy formulation and implementation.

16. Members may refer to the minutes of the Panel meeting on 28 October 2002 circulated under LC Paper No. CB(2) 350/02-03.

Conclusion

17. We are seeking clarification from the Administration on a technical point and will issue a further report.

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