立法會 Legislative Council

Ref: CB2/BC/3/10 <u>LC Paper No. CB(2)983/10-11</u>

(These minutes have been seen

by the Administration)

Bills Committee on Chief Executive Election (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010

Minutes of the first meeting held on Tuesday, 4 January 2011, at 10:45 am in the Chamber of the Legislative Council Building

Members: Hon TAM Yiu-chung, GBS, JP (Chairman)

present Hon Jeffrey LAM Kin-fung, SBS, JP (Deputy Chairman)

Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP

Dr Hon Margaret NG

Hon CHEUNG Man-kwong

Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

Hon WONG Yung-kan, SBS, JP

Hon LAU Kong-wah, JP

Hon LAU Wong-fat, GBM, GBS, JP

Hon Miriam LAU Kin-yee, GBS, JP

Hon Emily LAU Wai-hing, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon Audrey EU Yuet-mee, SC, JP

Hon Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, MH

Hon LEE Wing-tat

Hon WONG Ting-kwong, BBS, JP

Hon Ronny TONG Ka-wah, SC

Hon CHIM Pui-chung

Prof Hon Patrick LAU Sau-shing, SBS, JP

Hon Cyd HO Sau-lan

Dr Hon LAM Tai-fai, BBS, JP

Hon CHAN Kin-por, JP

Dr Hon Priscilla LEUNG Mei-fun

Hon WONG Kwok-kin, BBS

Hon IP Kwok-him, GBS, JP

Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Hon Paul TSE Wai-chun

Dr Hon Samson TAM Wai-ho, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung

Members : Hon Albert HO Chun-yan

absent Dr Hon Philip WONG Yu-hong, GBS

Hon Andrew CHENG Kar-foo

Hon Timothy FOK Tsun-ting, GBS, JP Hon Frederick FUNG Kin-kee, SBS, JP Hon CHEUNG Hok-ming, GBS, JP

Hon WONG Yuk-man

Public Officers: attending

Constitutional and Mainland Affairs Bureau

Mr Stephen LAM Sui-lung

Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah

Acting Permanent Secretary for Constitutional and

Mainland Affairs

Ms Anne TENG Yu-yan

Principal Assistant Secretary for Constitutional and

Mainland Affairs

Mr Freely CHENG Kei

Principal Assistant Secretary for Constitutional and

Mainland Affairs

Mr Ivanhoe CHANG Chi-ho

Principal Assistant Secretary for Constitutional and

Mainland Affairs

Department of Justice

Mr Gilbert MO Sik-keung

Deputy Law Draftsman

(Bilingual Drafting and Administration)

Miss Emma WONG

Senior Government Counsel

Clerk in : Miss Flora TAI

attendance Chief Council Secretary (2)3

Staff in : Mr Arthur CHEUNG

attendance Senior Assistant Legal Adviser 2

Ms Amy YU Senior Council Secretary (2)3

Miss Ivy LEONG Senior Council Secretary (2)4

Ms Wendy LO Council Secretary (2)3

Mr Ringo LEE Senior Legislative Assistant (2)1

Mrs Fonny TSANG Legislative Assistant (2)3

Ms CHAU Kwan-bing Legislative Assistant (2)9

Miss Lulu YEUNG Clerical Assistant (2)3

Action

I. Election of Chairman and Deputy Chairman

Mr TAM Yiu-chung and Mr Jeffrey LAM were elected as the Chairman and Deputy Chairman of the Bills Committee respectively.

II. Meeting with the Administration

[CMAB C5/1 and C1/30/5, LC Paper Nos. LS16/10-11, LS17/10-11, CB(2)710/10-11(01) to (02), CB(2)715/10-11(01), CB(3)313/10-11 and CB(3)314/10-11]

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Admin

3. <u>The Administration</u> was requested to provide information on the views it had received from various political parties regarding the nomination threshold for the new District Council Functional Constituency.

III. Any other business

Meeting schedule

- 4. <u>Members</u> agreed to the following meeting schedule for January 2011 -
 - (a) 10 January 2011 (Monday) from 5:00 pm to 7:00 pm;
 - (b) 15 January 2011 (Saturday) from 9:00 am to 1:00 pm and from 2:30 pm 5:30 pm;
 - (c) 18 January 2011 (Tuesday) from 8:30 am to 10:30 am;
 - (d) 20 January 2011 (Thursday) from 8:30 am to 10:30 am;
 - (e) 21 January 2011 (Friday) from 3:00 pm to 6:00 pm (from 3:00 pm or immediately after the House Committee meeting, whichever was the later);
 - (f) 25 January 2011 (Tuesday) from 9:00 am to 1:00 pm and from 2:30 pm to 4:30 pm;
 - (g) 27 January 2011 (Thursday) from 2:30 pm to 5:30 pm; and
 - (h) 29 January 2011 (Saturday) from 9:30 am to 12:00 noon.

Invitation of public views

- 5. <u>Members</u> agreed to post a notice on the Legislative Council website to invite public views on the Bills. In line with usual practice, invitation letters would be sent to all the District Councils to invite their views. <u>Members</u> also agreed to receive public views at the meeting scheduled for 15 January 2011 from 9:00 am to 1:00 pm and 2:30 pm to 5:30 pm. If the Bills Committee could not receive views from all the deputations/individuals which/who had requested to make submissions in person at that meeting, the Bills Committee would also receive public views at the meeting scheduled for 25 January 2011.
- 6. There being no other business, the meeting ended at 12:47 pm.

Council Business Division 2 <u>Legislative Council Secretariat</u> 8 February 2011

Proceedings of the first meeting of the Bills Committee on Chief Executive Election (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010 on Tuesday, 4 January 2011, at 10:45 am in the Chamber of the Legislative Council Building

Time Marker	Speaker(s)	Subject(s)	Action required
000054 - 000210	Ir Dr Raymond HO Mr Jeffrey LAM Mr WONG Kwok-kin Mr TAM Yiu-chung	Election of Chairman	•
000211 - 000247	Chairman Mr WONG Ting-kwong Mr Abraham SHEK Ms Miriam LAU Mr Jeffrey LAM	Election of Deputy Chairman	
000248 - 000649	Chairman	Meeting schedule for January 2011	
		Arrangements for receiving public views	
000650 - 000947	Administration	Briefing by the Administration on the Bills	
000948 - 001057	Chairman Mr Jeffrey LAM	Arrangement for receiving public views	
001058 - 001435	Mr WONG Kwok-hing Administration	Mr WONG Kwok-hing considered last year's so called "referendum campaign" a waste of public money and enquired whether the Administration had come up with means to prevent abuse of the electoral system. As the new District Council Functional Constituency ("DCFC") seats were proposed to be returned from the whole Hong Kong Special Administrative Region through a single constituency, Mr WONG expressed concern that should any of these Members resign to trigger a so-called "referendum campaign", a by-election covering the whole territory would have to be held, wasting public money. The Administration responded that it was exploring means which were in compliance with the Basic Law ("BL") to plug the loophole and it was the Administration's aim to propose legislative amendments in the first half of 2011.	

Time Marker	Speaker(s)	Subject(s)	Action required
001436 - 001952	Mr LEE Wing-tat Administration	Mr LEE Wing-tat pointed out that every Member had the right to resign to pursue what he considered as a just cause and did not agree that it was a constitutional or legal loophole.	•
		The Administration responded that the willful resignation of Members did not accord with the public's expectation for them to serve the full term of four years when they were elected. The Administration considered it necessary to limit the room which allowed a Member to resign at will.	
001953 - 002548	Ms Audrey EU	Ms Audrey EU made the following points:	
Administration	(a) section 14 of the Legislative Council Ordinance (Cap. 542) ("LCO") provided that a Member could resign at any time. Members had the right to resign to protest against injustice and it was for the electors to decide whether to cast their votes to them in the by-election; and		
		(b) Members belonging to the Civic Party objected to the proposed new DC FC seats.	
		The Administration responded that -	
		(a) BL did not provide for any referendum mechanism. However, the Administration had to discharge its statutory duty to arrange the by-election to ensure that the views of Hong Kong people were fully represented in the Legislative Council ("LegCo");	
	(b) the LegCo by-election in May 2010 arising from the so-called "referendum campaign" had the lowest ever voter turnout rate of about 17%, which reflected the fact that the public did not support the so called "referendum campaign"; and		
		(c) the "one-person-two-votes" proposal for returning the five new DC FC seats by some 3.2 million electors had enhanced the democratic elements of the LegCo election.	

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002549 - 002730	Mrs Regina IP Administration	Mrs Regina IP pointed out that in the United States, some vacancies in the Senate arising from the resignation of Senators were filled by way of nomination by the Governor, and not through by-election.	•
002731 - 003208	Dr Priscilla LEUNG	Dr Priscilla LEUNG considered it a loophole that a Member resigning from his office could stand for election in the by-election to fill that vacancy, and that such a loophole should be plugged.	
003209 - 003858	Chairman Dr Margaret NG Administration	Dr Margaret NG's view that the "de facto referendum" was a success and the voter turnout rate of 17% (with 500 000 electors having cast their votes) in the LegCo by-election was very high considering that the elections were uncontested.	
003859 - 004505	Mr Ronny TONG Chairman Ms Audrey EU Administration	Mr Ronny TONG's view that the underlying cause of the "de-facto referendum" was the public discontent with the lack of progress in democratic development. To tackle the problem at root, the Administration should work out electoral arrangements for attaining genuine universal suffrage for the Chief Executive ("CE") and LegCo as early as practicable.	
		 The Administration responded that - (a) it had already secured a timetable for the implementation of universal suffrage for CE and LegCo in 2017 and 2020 respectively; and (b) the "one-person-two-votes" proposal for returning the five new DC FC seats would bring about democratic progress. 	
004506 - 004620	Mr WONG Ting-kwong	Mr WONG Ting-kwong's view that the public did not support the so-called "referendum campaign".	
004621 - 005140	Chairman Ms Emily LAU	Ms Emily LAU's views that - (a) the Administration should work out as soon as possible the arrangements for implementing genuine universal suffrage for CE in 2017 and LegCo in 2020. The proposal put forward by some people for retaining and improving the FC system by having FC Members nominated by the FCs	

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		concerned and elected by all registered electors on the basis of "one-person-one-vote" did not comply with the principle of universal suffrage, as there was inequality among the right to nominate, the right to stand for election and the right to vote under the proposal; and (b) the nomination threshold for the new DC FC	. 1
		should be lowered to 10 instead of 15 as proposed by the Administration so as to allow more candidates to participate in the election.	
		The Administration responded that -	
		(a) the new DC FC election proposed for 2012 was not geographical constituency ("GC") direct elections, as the candidates were limited to elected DC members nominated by elected DC members, and not all the 3.4 million registered electors in the GC electoral registers were entitled to vote. The arrangements for implementing universal suffrage for LegCo in 2020, which had yet to be worked out, must comply with the principles of universality and equality; and	
		(b) the nomination threshold for the new DC FC was proposed after taking into account the proposals put forward by various political parties. The proposed nomination threshold of 15 meant that for a list of five candidates, each candidate on average only needed to have three nominations. The Administration considered that it was a low threshold and was reasonable.	
005141 - 005756	Mr Alan LEONG Administration	Mr Alan LEONG sought elaboration on how the legislative proposals in the Bills would pave the way for the full implementation of universal suffrage for the selection of CE in 2017 and for the formation of LegCo in 2020.	
		The Administration responded that - (a) the proposal of increasing the number of members of the Election Committee ("EC") from 800 to 1 200 with the number of	

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		members for each of the four existing sectors increasing by the same proportion would help transform EC into the nominating committee under BL 45 when universal suffrage for CE was implemented in 2017; and	
		(b) the "one-person-two-votes" proposal for returning the five new DC FC seats would enhance significantly the representativeness of LegCo and facilitate further democratization of the composition of LegCo in 2016, paving the way for attaining the ultimate goal of universal suffrage in 2020.	
		Mr Alan LEONG considered that to facilitate the full implementation of universal suffrage for the selection of CE in 2017, the Administration should broaden the electorate base of the EC subsectors to make EC more broadly representative.	
		The Administration responded that -	
		(a) the proposal of allocating 117 seats to the DC subsectors in the fourth sector of EC and returning the seats by elected DC members from among themselves would enhance the democratic elements of the EC subsector elections through the increased participation of elected DC members who had public mandate; and	
		(b) when universal suffrage for CE was implemented in 2017, CE would be elected on the basis of "one-person-one-vote" by all the registered electors after nomination of a certain number of candidates by the nominating committee in accordance with democratic procedures.	
		Mr Alan LEONG expressed concern that implementing the proposal for creating five new DC FC seats would make it more difficult to abolish the FC system in future. The Administration responded that the "one-person-two-votes" proposal for returning the five new DC FC seats in 2012 would enhance the democratic elements of the FC elections and facilitate the implementation of universal suffrage for the LegCo election in 2020.	

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005757 - 010404	Mr Paul TSE Administration	Considering that the FC system had its merits, Mr Paul TSE expressed grave disappointment that the Administration had not done much to enhance the representativeness of FCs over the years and urged the Administration to amend its proposals to broaden the electorate base of the traditional FCs to enhance their representativeness. The Administration responded that - (a) the "one-person-two-votes" proposal for returning five new DC FC seats by some 3.2 million registered electors would substantially enhance the overall representativeness of FCs; (b) the overall approach for the electoral method for LegCo in 2012 was that there should be no substantial changes for the traditional FCs; and (c) Members were welcome to give views on the future of the FC system. Mr Paul TSE echoed the view that the Administration should explore mechanisms for the filling of vacancies in LegCo arising from resignation of Members by making reference to the practices in other jurisdictions such as the United States.	required
010405 - 010819	Chairman Mr WONG Kwok-hing Ms Miriam LAU	Mr WONG Kwok-hing reiterated his objection to the so-called "referendum campaign" via by-election. Ms Miriam LAU shared the view that the Administration should address the issue.	
010820 - 011244	Ms Miriam LAU Administration	Ms Miriam LAU expressed dissatisfaction that the Administration had not made any proposal to broaden the electorate base of the traditional FCs. In respect of the Transport FC, she pointed out that the Administration had ignored the requests made repeatedly by many trade organizations for joining the FC, including those participating in the regular meetings convened by the Transport Department. She also noted with concern the proposed deletion of a number of organizations from the electoral register of the Transport FC, which would further reduce its electorate base.	

Time Marker	Speaker(s)	Subject(s)	Action required
		She urged the Administration to amend its legislative proposals to broaden the electorate base of the traditional FCs.	10402100
		The Administration responded that -	
		(a) for the traditional FCs, the Administration's general policy was that there should be no substantial changes. However, as a regular exercise before each LegCo election, the Administration would review the need to propose technical adjustments to the electorate of the traditional FCs to reflect their latest developments;	
		(b) in respect of the Transport FC, the Administration had proposed to delete two organizations which had ceased operation. The Administration had indeed received requests from various organizations for joining the Transport FC; and	
		(c) in the course of the scrutiny of the Bills by LegCo, the Administration would continue to listen to views of relevant organizations and consideration would be given to making technical adjustments to the electorate of the traditional FCs where appropriate.	
011245 - 012144	Mr LEUNG Kwok-hung Administration	Mr LEUNG Kwok-hung did not agree with the view that the resignation of the five GC Members to trigger a "de facto referendum" was a waste of public money. In his view, the FC elections, including the "one-person-two-votes" election method proposed for the new DC FC, were wasting public money, as all LegCo seats should be returned by the GC direct elections on the basis of "one-person-one-vote".	
		The Administration responded that -	
		(a) the LegCo by-election in May 2010 had the lowest ever voter turnout rate; and	
		(b) according to the opinion polls conducted by various universities, more than 50% of the respondents supported the "one-person-two-votes" proposal for returning the five new DC FC seats.	

Time Marker	Speaker(s)	Subject(s)	Action required
012145 - 012738	Ms Audrey EU Administration	Ms Audrey EU enquired - (a) about the views that the Administration had received from various political parties regarding the nomination threshold for the new DC FC;	
		(b) whether the "one-person-two-votes" election method for the new DC FC would become a model for the implementation of universal suffrage for forming LegCo;	
		(c) whether the Administration had any intention to expand the electorate of FCs to increase their representativeness; and	
		(d) when appointed DC seats would be abolished.	
		The Administration responded that -	
		(a) the proposals put forward by various political parties ranged from 10 to 20 subscribers. Having considered the proposals, the Administration considered it appropriate to set the nomination threshold at 15;	
		(b) the "one-person-two-votes" election method proposed for the new DC FC would enhance the democratic elements of the 2012 LegCo election. The electoral arrangements for 2020 must comply with the principles of universality and equality, but the model for the implementation of universal suffrage for forming LegCo in 2020 was yet to be worked out which should be the task of the next-term Government;	
		(c) although no substantial changes had been made to the traditional FCs, the "one-person-two-votes" election method proposed for the new DC FC would enhance the overall representativeness of the FC elections; and	
		(d) the Administration would put forward proposals for the abolition of appointed DC seats in due course.	

Time Marker	Speaker(s)	Subject(s)	Action required
		The Administration agreed to provide information on the views it had received from various political parties regarding the nomination threshold for the new DC FC.	Admin (para 3 of minutes)
012739 - 013305	Mr LEE Wing-tat Administration	Mr LEE Wing-tat's views that - (a) the five new DC FC seats to be returned by some 3.2 million registered voters was a step forward, and not backward, in the development of democracy; and	
		(b) The proposed nomination threshold of 15 amounted to some 3% of the total number of subscribers (i.e. the 412 elected DC members of the fourth term DC), which was a high threshold. The Administration should lower the nomination threshold for the new DC FC to enable more candidates to participate in the election.	
		The Administration responded that - (a) the new DC FC proposal would substantially enhance the democratic elements of the LegCo election; and	
		(b) with the proposed nomination threshold of 15, it was envisaged that the 412 elected DC members of the fourth term DC could nominate up to some 20 candidates/lists of candidates and this would ensure sufficient competition in the new DC FC election.	
013306 - 013953	Dr Margaret NG Administration	Dr Margaret NG said that the Law Society of Hong Kong had expressed the view that the Administration's proposals for the 2012 elections did not comply with the principle of gradual and orderly progress under BL, as they were not adequately progressive and hence drastic changes would be required in the run-up from 2012 to 2020 if universal suffrage for LegCo was to take place in 2020. She invited the Administration's response to such view.	
		The Administration responded that the new DC FC proposal would bring about substantive democratic progress and help Hong Kong get closer to the ultimate goal of universal suffrage.	

Time Marker	Speaker(s)	Subject(s)	Action required
		Dr Margaret NG asked whether the five new DC FC seats would only apply to the 2012 LegCo election or whether they would continue to exist after 2012.	required
		The Administration responded that the arrangements for the 2016 LegCo election would be dealt with in the years between 2012 and 2016 while the model for implementing universal suffrage in the 2020 LegCo election between 2016 and 2020.	
013954 - 014240	Mr Ronny TONG	On the Administration's proposal that consular posts and overseas government bodies would no longer be eligible as electors of FCs, Mr Ronny TONG sought clarification on whether it referred only to eligibility as corporate electors. The Administration replied in the affirmative.	
		Mr TONG further enquired about the types of organizations covered under the proposal and whether similar amendments would be made to the electoral arrangements for the EC subsector elections.	
		The Administration responded that -	
		(a) under the proposal, only those consular posts specified in the Consular Relations Ordinance (Cap. 557) and the international organizations under the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) and the International Organizations and Diplomatic Privileges Ordinance (Cap. 190) would no longer be eligible to be registered as a corporate elector; and	
		(b) the relevant amendments would also be applicable to the corresponding EC subsectors in the CE Election Ordinance.	
014241 - 014800	Mr LEUNG Kwok-hung	Mr LEUNG Kwok-hung reiterated his objection to the new DC FC proposal as it did not provide for equality in the right to nominate and the right to stand for election. His view that the proposal was a retrogressive step in democratic development.	

Time Marker	Speaker(s)	Subject(s)	Action required
014801 - 015354	Ms Emily LAU Administration	Ms Emily LAU pointed out that many members of the public had expressed support for the "one-person-two-votes" proposal for returning the five new DC FC seats with which the constitutional development of Hong Kong had taken a step forward.	
		Ms Emily LAU expressed strong dissatisfaction that the subsidy rate per vote would only be slightly increased from \$11 to \$12 with the cap of financial assistance payable maintained at 50% of the declared election expenses. She urged the Administration to enhance the financial assistance for the 2012 LegCo election to enable people with limited means to participate in the election.	
		The Administration responded that the proposed increase of the subsidy rate per vote had taken into account the cumulative inflation rate of about 9% since the last adjustment. The existing practice that candidates would need to meet half of their election expenses was considered reasonable and had been functioning well.	
		In response to Ms Emily LAU's enquiry, the Administration advised that the threshold for forfeiture of LegCo election deposit was lowered from 5% to 3% of the total number of valid votes cast when the scheme for providing financial assistance to candidates was introduced in the 2004 LegCo election.	
		With the increase in the number of seats for GCs, Ms Emily LAU expressed concern whether a situation would arise where a candidate who had won the last seat in a GC election with less than 3% the valid votes cast would have his election deposit forfeited.	
	The Administration responded that to prevent a situation in which a candidate won a seat but only obtained a small percentage of the votes, it had proposed that the ceiling for the number of seats to be allocated to a GC should be set at nine. According to past experience with the proportional representation list-voting system, for a GC with nine seats, the first seat would be won by a candidate who had obtained about 11.1% of the valid votes cast for the constituency, while the		

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		last seat might be won by a candidate who had obtained about 5% (i.e. roughly half of the votes obtained by the candidate winning the first seat) of the valid votes cast.	•
015355 - 015833	Ms Audrey EU Administration	Ms Audrey EU pointed out that with the proposed election expense limit of \$6 million and the cap on financial assistance payable maintained at 50% of the declared election expenses, a candidate running for the new DC FC seats would have to fork out \$3 million, which was roughly equivalent to the total amount of remuneration for a LegCo Member during the four-year term of office. She queried whether such arrangement was reasonable.	
		The Administration responded that -	
		(a) the Administration had considered the proposals put forward by various political parties ranging from \$4 million to \$8 million. The Administration considered it appropriate to set the maximum amount of election expense for the new DC FC at \$6 million;	
		(b) the proposed election limit of \$6 million was set on the basis of an estimation of the election expenses required for the election. The printing of about 3.2 million promotional leaflets was estimated to cost about \$3 million and a further \$2 million to \$3 million was needed for banners and other electioneering activities;	
		(c) the proposed \$6 million was the upper limit and a candidate could spend less than that;	
		(d) political parties and individual candidates could organize fund-raising activities to support their election campaigns; and	
		(e) it had been a long-standing practice that candidates would need to meet half of their election expenses and the same would also apply to the new DC FC election.	

Time Marker	Speaker(s)	Subject(s)	Action required
015834 - 020136	Dr Priscilla LEUNG	Dr Priscilla LEUNG expressed support for the "one-person-two-votes" proposal for returning the five new DC FC seats which would bring Hong Kong one step closer to the implementation of universal suffrage for LegCo. She considered that the maximum amount of election limit for the new DC FC should be set at \$4 million to \$6 million.	
020137 - 020158	Chairman	Date of next meeting	

Council Business Division 2 <u>Legislative Council Secretariat</u> 8 February 2011