

立法會
Legislative Council

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LC Paper No. CB(2)1299/10-11
(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 fourth meeting
held on Tuesday, 18 January 2011, at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Jeffrey LAM Kin-fung, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon WONG Yung-kan, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
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 Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC

Members absent : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, GBS, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Public Officers attending : Constitutional and Mainland Affairs Bureau

Mr Stephen LAM
Secretary for Constitutional and Mainland Affairs

Mr Joshua LAW
Permanent Secretary for Constitutional and Mainland Affairs

Mr Arthur HO
Deputy Secretary for Constitutional and Mainland Affairs

Ms Anne TENG
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mr Freely CHENG
Principal Assistant Secretary for Constitutional and Mainland Affairs

Department of Justice

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

Miss Emma WONG
Senior Government Counsel

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

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

Ms Amy YU
Senior Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Meeting with the Administration

[CMAB C5/1 and C1/30/5, LC Paper Nos. CB(2)710/10-11(01) to (02), CB(2)830/10-11(01) to (02), CB(3)313/10-11 and CB(3)314/10-11]

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

Administration's responses to issues raised at the meeting on 10 January 2011

2. The Bills Committee considered the Administration's responses to issues raised at the meeting on 10 January 2011 [LC Paper Nos. CB(2)830/10-11(01) and (02)].

Clause-by-clause examination of the Bills

3. The Bills Committee started to examine the Chinese text of the Chief Executive Election (Amendment) Bill 2010 clause by clause. The legal adviser to the Bills Committee was requested to examine the English text of the Bill from the drafting point of view.

Follow-up actions required of the Administration

- Admin 4. The Administration was requested to -
- (a) explain the rationale for setting the various commencement dates as stipulated in clause 1 of the Chief Executive Election (Amendment) Bill 2010;
 - (b) provide detailed timetables for the District Council ("DC")

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election in November 2011, the Election Committee subsectors elections in December 2011, as well as the Chief Executive election and the Legislative Council ("LegCo") election in 2012, which should include the following information -

- (i) the respective deadlines for registration of electors and updating of electors' records, the respective dates for publication of the Provisional Register of Electors and the Final Register of Electors; and the effect of missing the relevant deadlines;
- (ii) the timetables for the delineation of constituency boundaries for the 2012 LegCo election; and
- (iii) the schedules for submitting the relevant subsidiary legislation to LegCo.

Admin 5. The Administration undertook to discuss with the Registration and Electoral Office to explore whether there was room for rationalizing the timeline of the relevant electoral registration procedures in the light of members' views. The Administration was also requested to consider whether it was feasible to postpone the deadline for registration of electors and the date of publication of the final register of the 2011 DC election to allow more time for voter registration.

Admin 6. The Administration undertook to consider whether the voting system of the Chief Executive ("CE") in the Chief Executive Election Ordinance (Cap. 569) should be amended to enhance the legitimacy of the candidate returned in a CE election and to revert to the Bills Committee if there was any proposal in that regard.

II. Any other business

7. There being no other business, the meeting ended at 10:32 am.

**Proceedings of the fourth meeting of the
Bills Committee on Chief Executive Election (Amendment) Bill 2010
and Legislative Council (Amendment) Bill 2010
on Tuesday, 18 January 2011, at 8:30 am
in the Chamber of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000733 - 001206	Chairman Administration	Briefing by the Administration on its paper on the "Voting System for the District Council ("DC") Subsectors Election under the Election Committee ("EC")" [LC Paper No. CB(2)830/10-11(01)]	
001207 - 001722	Mr Andrew CHENG Administration	<p>Noting that enhancing the legitimacy of elected members was one of the justifications given by the Administration for adopting the bloc vote system for the DC subsectors election, Mr Andrew CHENG considered that as fairness of the voting system was equally important, the proportional representation system which was fairer should be adopted.</p> <p>The Administration responded that if the list proportional representation system was adopted, a candidate for a DC subsector would only need to obtain 3.5 votes to be elected, which would undermine the representativeness and credibility of the elected members. Having studied the issue carefully, the Administration considered it appropriate to continue to use the bloc vote system, which voters were more familiar with and which was simpler to operate, so as to enhance the legitimacy of the elected members.</p>	
001723 - 002003	Chairman Administration	<p>Briefing by the Administration on its paper on the "Electoral arrangements for the existing DC Functional Constituency ("FC") and new DCFC" [LC Paper No. CB(2)830/10-11(02)]</p> <p>The Administration clarified that according to section 60C of the Legislative Council ("LegCo") Ordinance (Cap. 542) ("LCO") and section 4 of the LegCo (Subscribers and Election Deposit for Nomination) Regulation, (Cap. 542C), a candidate/list of candidates would be eligible for financial assistance and refund of election deposit if the candidate/at least one candidate on the list was elected as a Member, regardless of the number of valid votes received by the candidate/list of candidates.</p>	

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002004 - 002745	Mr Albert HO Administration	<p>While noting that a successful candidate would be eligible for financial assistance and refund of election deposit regardless of the number of votes he received, Mr Albert HO considered it absurd if a candidate could win a seat with less than 5% of the total number of valid votes cast for the constituency (the threshold for eligibility for financial assistance). He suggested that the number of geographical constituencies ("GCs") be increased so that each GC would have only five or six seats, in order to prevent such an absurd situation from happening.</p> <p>The Administration responded as follows -</p> <p>(a) the Administration had considered the proposal put forward by some political parties (including the Democratic Alliance for the Betterment and Progress of Hong Kong and the Democratic Party) for increasing the number of GCs to six. As the division of the whole territory into five GCs had been in place for many years and prospective candidates had done a lot of work in local constituencies based on the existing delineation of GCs, the Administration considered it appropriate to retain the existing arrangement for the 2012 LegCo election; and</p> <p>(b) according to the population projection, the population of New Territories West ("NTW") would exceed two million in 2012. Hence, consideration could have been given to allocating 10 seats to NTW in accordance with the population quota of 206 000 for each GC. However, to prevent the situation of a candidate having won a seat but obtained only a small percentage of votes, the Administration proposed that the ceiling for the number of seats allocated to a GC should be capped at nine instead of ten. According to past experience with the list proportional representation 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 last seat might be won by a candidate who had obtained about 5.5% (i.e. roughly half of the votes obtained by the candidate winning the first seat) of the valid votes cast.</p> <p>Mr Albert HO did not subscribe to the view that the number of GCs should be retained at five on the ground that the public was used to the existing electoral</p>	

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		<p>arrangement. He suggested that consideration could be given to dividing up the NTW GC and the NT East GC into two GCs each, and opined that voters would not find it difficult to adjust to the new arrangement.</p> <p>Mr HO further expressed concern that for a GC with as many as nine seats, there might be some 15 to 20 lists of candidates competing in the election. Such a large number of candidates would make it difficult for the public to have a good understanding of their platforms.</p> <p>The Administration responded that -</p> <ul style="list-style-type: none"> (a) not all political parties considered that the number of GCs should be increased. For instance, the Hong Kong Federation of Trade Unions had proposed reducing the number of GCs to four; (b) major changes to the delineation of GC boundaries would affect prospective candidates and political parties who had spent much time and resources in local work based on the existing delineation of GCs; (c) with the increase in the number of GC directly elected seats from 30 to 35, it was reasonable that the number of seats allocated to each of the existing five GCs should also increase. The Administration's proposal of increasing the upper and lower limits of the number of seats for each GC would allow sufficient room for the Electoral Affairs Commission ("EAC") to determine the boundaries of the GCs and the allocation of seats to each GC; and (d) after thorough consideration, the Administration maintained that it was appropriate to retain the number of GCs at five for the 2012 LegCo election. 	
002746 - 003041	Mr IP Kwok-him Administration	Mr IP Kwok-him shared the view that it was important to ensure the representativeness and legitimacy of elected LegCo Members. While considering that the problem of a successful candidate having gained a seat with a small percentage of votes was unlikely to occur under the proposed electoral arrangements for the 2012 LegCo election, he stressed that with the increase in population and in the number of GC directly elected seats, the Administration should, in the long run, consider increasing the number of GCs to prevent a GC from having too many seats.	

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		<p>The Administration responded that it was aware of the need to review the GC boundaries in the long run with the increase in the number of GC directly elected seats. The Administration would take into account the experience of the 2012 LegCo election in any future review.</p>	
003042 - 004405	<p>Mr Albert HO Administration Dr Margaret NG SALA2 Ms Audrey EU Chairman</p>	<p>Mr Albert HO enquired whether amendment could be made to the LegCo (Amendment) Bill 2010 to increase the number of GCs.</p> <p>The Administration advised that the number of seats for each GC currently was to be a number not less than four nor greater than eight. It was proposed under clause 4(2) of the Bill that the number of seats for each GC be amended to a number not less than five nor greater than nine.</p> <p>Mr Albert HO enquired about the legal effect if clause 4(2) was negated.</p> <p>The legal adviser to the Bills Committee advised that in the event that clause 4(2) was negated, the existing stipulation on the upper and lower limits of seats for each GC as provided under section 19(2) of LCO would continue to apply. In other words, the number of seats for each of the five GCs should be between the range of four to eight. Under section 18(2) of LCO, the allocation of seats to the five GCs would be made by way of an order published in the Gazette.</p> <p>The Chairman pointed out that should clause 4(2) be negated, additional seats could not be allocated to the NTW GC which already had eight seats.</p> <p>Ms Audrey EU, however, considered that changes could be made to the boundaries of the existing GCs to rationalize the allocation of the 35 seats.</p> <p>Dr Margaret NG considered that the draft subsidiary legislation on allocation of the 35 seats should be provided to LegCo to facilitate Members' scrutiny of the LegCo (Amendment) Bill 2010.</p> <p>The Administration responded that -</p> <p>(a) pursuant to LCO, delineation of GC boundaries would be conducted independently by EAC based on the number of GCs and the upper and lower</p>	

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		<p>limits of seats for each GC as stipulated in LCO;</p> <p>(b) in making its recommendations, EAC would have regard to the existing boundaries of GCs and the 18 Districts as well as the relevant statutory criteria. EAC would issue its provisional recommendations for public consultation before finalizing its recommendations to the Chief Executive ("CE"); and</p> <p>(c) the Administration's proposal of increasing the upper and lower limits of the number of seats for each GC had taken into account the increase in population and the need to provide adequate room for EAC to allocate the increased number of seats among the five GCs.</p>	
004406 - 004928	<p>Ms Emily LAU SALA2 Administration Chairman Dr Margaret NG</p>	<p>Ms Emily LAU reiterated her view that the number of GCs should be increased so that a GC would not have as many as nine seats. She asked whether Committee Stage amendments ("CSAs") could be made to amend section 18(1) of LCO for the purpose of increasing the number of GCs.</p> <p>The legal adviser to the Bills Committee advised that it would depend on whether the proposed CSA fell within the scope of the Bill. If the Administration was of the view that the proposed CSA was outside the scope of the Bill, it would be for the President to rule on its admissibility.</p>	
Clause-by-clause examination of the Chief Executive Election (Amendment) Bill 2010			
004929 - 005706	<p>Chairman Administration Ms Audrey EU Dr Margaret NG</p>	<p>Long title</p> <p>Briefing by the Administration</p> <p>Ms Audrey EU said that many deputations giving views to the Bills Committee had expressed objection to the Administration's proposed allocation of the 10 Special Member seats in the fourth sector of EC. Members belonging to the Civic Party also objected to the Administration's proposal and shared the deputations' view that these seats should be opened up to persons from different background to broaden the representativeness of EC.</p> <p>The Administration responded that with the proposed</p>	

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		<p>increase of the membership of EC from 800 to 1 200, the Administration had the responsibility to make a proposal to fill all the 10 vacancies as far as practicable when the EC was established in February 2012. Members and the public could put forward other proposals for discussion.</p> <p>Dr Margaret NG remarked that it was within the scope of the Bill to propose CSAs to the method for filling the 10 Special Member seats.</p>	
005707 - 010433	Chairman Administration Ms Audrey EU	<p>Part I Clause 1 – Short title and commencement</p> <p>Briefing by the Administration on the various commencement dates for different provisions of the Bill.</p>	
010434 - 010957	Dr Margaret NG Administration Chairman	<p>Noting from the Administration that the deadline for voter registration for inclusion in the 2011 provisional register was 16 July 2011 while the date of publication of the 2011 final register was 25 September 2011, Dr Margaret NG considered that there was room for postponing the deadline for registration of voters to allow more time for eligible persons to register as voters for the 2011 DC election.</p> <p>The Administration advised that -</p> <ul style="list-style-type: none"> (a) in response to the views raised by LegCo Members a few years ago, the Administration had already postponed the deadline for registration of electors in a DC election year for two months to allow more time for voter registration; and (b) it was important to allow sufficient time for the Registration and Electoral Office ("REO") to process the registration particulars of some 3.2 million voters to ensure the accuracy of the information. <p>At the request of Dr Margaret NG, the Administration agreed to provide the following information in writing -</p> <ul style="list-style-type: none"> (a) in respect of the voter registration for the elections in 2011 and 2012, the respective deadlines for registration of electors and updating of electors' records, and the respective dates for publication of the provisional register and the final register; and 	<p>Admin (para 4 of minutes)</p>

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	<p>Administration Chairman Dr Margaret NG</p>	<p>Administration explained that there was no start date for voter registration. Eligible persons could apply for registration as voters throughout the year. Applications for registration received after the deadline for registration in the electoral register of an election year would be processed for compilation in the following year's electoral register.</p> <p>Ms Audrey EU expressed concern about the absence of a mechanism for lodging objection to the final register.</p> <p>The Administration assured members that the existing electoral registration system had been in use for many years and had been functioning well. The Administration also pointed out that based on past experience, the extent of changes made to the provisional register was small.</p> <p>Ms Audrey EU and Dr Margaret NG enquired about the timetable for delineation of GC boundaries by EAC for the 2012 LegCo election.</p> <p>The Administration responded that subject to the passage of the LegCo (Amendment) Bill 2010, EAC would draw up provisional recommendations for the delineation of GC boundaries for public consultation during the summer of 2011, and it was expected that EAC's final recommendations would be submitted to CE in September 2011. The relevant order on delineation of GC boundaries would be submitted to LegCo for approval in around October 2011.</p> <p>Dr Margaret NG asked -</p> <ul style="list-style-type: none"> (a) when the Administration would start its publicity campaign on the electoral arrangements for the new DCFC, in particular on how it would impact on the voting right of voters of traditional FCs; and (b) when the final registers of traditional FCs would be published. <p>The Administration responded that -</p> <ul style="list-style-type: none"> (a) during this year, REO would focus its work on the DC election to be held in November 2011 and the EC subsector elections in December 2011. It would start its publicity work on the electoral arrangements for the new DC FC election as early 	

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		<p>as practicable in 2012; and</p> <p>(b) the final registers of traditional FCs would be published in the summer of 2012.</p>	
014506 - 014910	Ms Emily LAU Administration	<p>In response to Ms Emily LAU's enquiry on the voter registration rate, the Administration advised that about 70% of the 4.5 million eligible persons had registered as voters.</p> <p>Ms Emily LAU requested the Administration to also include in its information paper to the Bills Committee the timetables for delineation of constituency boundaries for the 2012 LegCo election and the schedules for submitting the relevant subsidiary legislation relating to the various elections to LegCo.</p>	Admin (para 4 of minutes)
014911 - 015524	Mr WONG Kwok-kin Chairman Administration	<p>Mr WONG Kwok-kin pointed out that under the existing CE election voting system in the CE Election Ordinance (Cap. 569), a candidate who had obtained more than half of the total number of valid votes cast would be returned in an CE election. There was concern about the legitimacy of the elected candidate should only a small number of EC members cast their votes in the election. It was suggested that amendment to the Ordinance should be made to provide that a successful candidate for the CE election should obtain more than 50% of the votes of all EC members, with a view to enhancing the legitimacy of the CE elect.</p> <p>The Administration responded that it was important to ensure that the electoral arrangement for the CE election should comply with the principle of balanced participation and that the CE elect had sufficient representativeness and legitimacy. The Administration would carefully consider the issue raised by Mr WONG Kwok-kin and would revert to the Bills Committee to see if any proposal could be made in that regard.</p>	Admin (para 6 of minutes)
015525 - 020224	Ms Audrey EU Administration Chairman	Ms Audrey EU requested the Administration to consider whether it was feasible to postpone the deadline for registration of electors and the date of publication of the final register for the 2011 DC election to allow more time for voter registration.	Admin (para 5 of minutes)

Time Marker	Speaker(s)	Subject(s)	Action required
020225 - 020245	Chairman Ms Emily LAU	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
17 March 2011