

立法會
Legislative Council

LC Paper No. LS98/10-11

**Paper for the House Committee Meeting
on 7 October 2011**

**Legal Service Division Report on
The Hong Kong Polytechnic University (Amendment) Bill 2011
(Member's Bill)**

I. SUMMARY

1. **Objects of the Bill** (a) To revise the composition of the Council (Council) of The Hong Kong Polytechnic University (PolyU) and the appointment of Council members and the President and Deputy President.
(b) To re-define the role of the Council and PolyU's objects.

2. **Comments** This is a Member's Bill introduced with the Chief Executive's consent. It seeks to improve the internal governance of PolyU in light of the recommendations of the Report on "Higher Education in Hong Kong" published in March 2002, the comments of the Public Accounts Committee in its report published in November 2003 and PolyU's subsequent internal review on governance and management.

The Bill proposes to reduce the size of the Council from 29 to 25 members and the number of members who are not employees or students (lay members) appointed by the Chief Executive to the Council from 20 to nine. Changes are also made to the number of student representatives and lay members, the eligibility of all full-time staff members to be elected to the Council and the right of staff to participate as Council members in the appointment of the President and Deputy President.

3. **Public Consultation** According to the LegCo Brief, PolyU has consulted its Council, its Staff Association and the Education Bureau in relation to the proposals in the Bill.

4. **Consultation with LegCo Panel** The Panel on Education was consulted on 9 November 2009. A Member considered that there should be representatives from various functional areas of a university to sit on its Council to represent different interests.

5. **Conclusion** Members may wish to consider whether they need to set up a Bills Committee. Some drafting issues have been raised with PolyU and its response is pending.

II. REPORT

Objects of the Bill

To amend The Hong Kong Polytechnic University Ordinance (Cap. 1075) (the Ordinance) to improve the internal governance of The Hong Kong Polytechnic University (PolyU) by –

- (a) revising the composition of PolyU's Council (Council) and the appointment of Council members, the President and Deputy President; and
- (b) re-defining the role of the Council and PolyU's objects.

LegCo Brief

2. Issued by the Council Secretariat of PolyU in June 2011 (without reference number).

Date of First Reading

3. 13 July 2011.

Comments

Member's Bill

4. This is a Member's Bill sponsored by Dr Hon LAM Tai-fai. The President of the Legislative Council (LegCo) has ruled that the Bill relates to Government policies within the meaning of Rule 51(4) of the Rules of Procedures (see President's Ruling dated 15 December 2010). The Chief Executive gave written consent in June 2011 for the Bill to be introduced into the LegCo.

Background

5. According to paragraph 2 of the LegCo Brief, PolyU has proposed to introduce amendments to the Ordinance after considering the recommendations of the University Grants Committee's Report on "Higher Education in Hong Kong" published in March 2002 (the Report); the recommendations of the Governance and Management Review (the Review) conducted by PolyU with various stakeholders in response to the Report; the

comments of the Public Accounts Committee in its Report no. 40A published in November 2003 (PAC Report) with regard to the effect of section 9(3)(c) of the Ordinance; and the comments of the Education Bureau.

Composition of and appointment to the Council

6. The Report recommended, among other things, that university councils should be small in size for more effective governance. After considering the recommendation, PolyU proposes that the number of Council members be reduced from 29 to 25.

7. PolyU has conducted the Review. The salient points are summarized as follows –

- (a) as low-ranking non-academic staff members are not eligible for appointment as Council members, it is proposed that this restriction be removed so that all full-time staff members are eligible for appointment as Council members;
- (b) the number of student representatives is to be increased from one to two, of whom one shall be elected by and from the full-time undergraduate and sub-degree students, and the other one shall be elected by and from full-time postgraduate students;
- (c) the number of Council members who are not employees or students (now all appointed by the Chief Executive) are to be reduced from 20 to 17, with nine continuing to be appointed by the Chief Executive and the remaining eight members to be appointed by the Council; and
- (d) two Deans of the faculties or equivalent body of PolyU nominated by the President are to be removed from the Council, as the President and Deputy President are appointed as ex-officio members and other senior management of the Council are attending Council meetings as observers and therefore are well represented in the Council meetings.

Appointment and removal of President and Deputy President

8. At present, Council members who are employees and students have no voting right with regard to the appointment and removal of the President and Deputy President of PolyU. As employees and students are important stakeholders, PolyU proposes that this restriction be removed.

9. PolyU seeks to state in the Bill the existing practice that the Deputy President should not be a member for the purpose of appointing and removing himself that is currently not stated in the Ordinance.

10. While the existing requirements under the Ordinance is no less than 14 votes by 21 eligible Council members, and no less than 14 votes by 22 eligible Council members, for the appointment and removal of PolyU's President and Deputy President respectively, it is proposed that the appointment and removal of PolyU's President and Deputy President should require the votes of not less than two-thirds of all members for the time being.

Quorum at Council meetings

11. Under the existing Ordinance, the requirement for a quorum at a Council meeting is 14 Council members, which is less than half of the current membership of 29. PolyU proposes that the quorum at Council meetings should be more than half of the total Council membership for the time being.

Council's role in determining the policy of staff members' employment contracts

12. In the PAC Report, an issue was raised as to whether the President's Personal Affairs Committee of PolyU, in the approval process of granting a cash allowance to its President, had complied with section 9(3)(c) of the Ordinance which states the Council shall not delegate to any committee appointed by it the power to approve the terms and conditions of service of persons in the employment of the university, other than persons in part-time or temporary employment. The PAC Report suggested that according to section 9(3)(c) of the Ordinance, the Council must approve the terms and conditions of service of every person in the full-time employment of the PolyU. However, PolyU's intention is that the Council should be the body for approving the policy governing the terms and conditions of service of staff members while the Management should be the body for determining and approving the terms of employment of staff members. PolyU proposes that section 9(3)(c) be revised to clarify the position.

Revisions on the PolyU's objects to reflect its development

13. PolyU has proposed to amend its objects to reflect its role and mission in line with its latest mission statement. While the Council shall continue to hold authority for approving fees for government-funded programmes, PolyU has proposed to revise the Ordinance so that fees for self-financed programmes and other miscellaneous charges should not require the Council's approval.

Commencement

14. If enacted, the Bill will come into operation upon gazettal.

Public Consultation

15. According to the LegCo Brief, PolyU has consulted its Council, its Staff Association and the Education Bureau in relation to the proposals in the Bill.

Consultation with LegCo Panel

16. The Panel on Education was briefed on 9 November 2009 in relation to an earlier draft of the Bill (The Hong Kong Polytechnic University (Amendment) Bill 2009). On the proposed composition of the Council, a Member expressed the view that there should be representatives from various functional areas of a university to sit on its Council in order to represent different interests.

Conclusion

17. Members may wish to consider whether they need to set up a Bills Committee. Some drafting issues have been raised with PolyU and its response is pending.

Prepared by

Carrie WONG
Assistant Legal Adviser
Legislative Council Secretariat
3 October 2011

LS/B/25/10-11