

立法會
Legislative Council

LC Paper No. LS17/10-11

Paper for the House Committee Meeting on 17 December 2010

**Legal Service Division Report on
Legislative Council (Amendment) Bill 2010**

I. SUMMARY

- 1. Objects of the Bill**

To enlarge the Legislative Council by adding five geographical constituency seats and creating a new District Council functional constituency (DC (second) FC) of five seats and to make other changes related to Legislative Council (LegCo) elections.
- 2. Comments**

The main proposals arising from the creation of 10 additional seats and other salient changes are –

 - a) the number of seats to be allocated to each geographical constituency to be not less than five and not more than nine;
 - b) the 5 new DC (second) FC seats to be returned from a single functional constituency covering the whole of Hong Kong in accordance with the proportional representation list system;
 - c) only elected DC members to be eligible for nomination as candidates for DC (second) FC or DC (first) FC (i.e. the re-named existing DC FC);
 - d) the election expenses limit for the new DC (second) FC to be set at \$6 million;
 - e) updating the names of certain bodies or members of bodies comprising the electorate of some functional constituencies and deleting those which have ceased operation; and
 - f) consular posts and international organizations to be disqualified from registration as corporate electors in functional constituencies.
- 3. Public Consultation**

The Administration published in November 2009 the "Consultation Document on the Methods for Selecting the Chief Executive and for Forming the LegCo in 2012" and in April 2010 the "Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the LegCo in 2012".
- 4. Consultation with LegCo Panel**

At the meeting of the Panel on Constitutional Affairs on 30 October 2010, members expressed various views and concerns about candidature and nomination for the new DC FC, voting method, election expenses limit, level of financial assistance and electorate base of existing functional constituencies.
- 5. Conclusion**

Members would certainly wish to set up a Bills Committee to study the Bill in depth.

II. REPORT

Objects of the Bill

To enlarge the Legislative Council by adding five geographical constituency seats and creating a new District Council functional constituency (DC (second) FC) of five seats and to make other changes related to Legislative Council (LegCo) elections.

LegCo Brief Reference

2. CMAB C5/1 and C1/30/5 issued by the Constitutional and Mainland Affairs Bureau on 8 December 2010.

Date of First Reading

3. 15 December 2010.

Comments

4. The principal objective of the Bill is to enlarge the composition of LegCo from its present 60 seats to 70 seats in accordance with the amendments made to Annex II of the Basic Law, as passed by LegCo in June 2010, consented to by the Chief Executive and recorded by the Standing Committee of the National People's Congress.

5. Five of the 10 seats will be allocated to the geographical constituencies but the exact distribution of the total of 35 seats among the five existing constituencies will have to be recommended by the Electoral Affairs Commission, taking into account population projections. However, the Bill proposes that the number of seats to be allocated to each of them should be not less than five and not more than nine (four and eight at present). Members may refer to paragraphs 12 and 13 of the LegCo Brief for an explanation of the Administration's position.

6. The other five seats will be returned in accordance with the proportional representation list system from a new DC (second) FC covering the whole of Hong Kong. Its electors will be persons registered in any existing FC (other than the Heung Yee Kuk, agricultural and fisheries, insurance, transport and

the existing DC FC (to be re-named District Council (first) functional constituency)) who wish to switch to the new DC (second) FC and other eligible persons who choose to be so registered. Whereas at present a candidate for the existing (but to be re-named) DC FC has to satisfy the Returning Officer as to his or her substantial connection to the constituency, the Bill proposes that a person may only be nominated as a candidate for either the DC (first) FC or DC (second) FC if he or she is an elected DC member. The maximum election expenses for the new DC (second) FC is proposed to be fixed at \$6 million.

7. The Bill does not propose any other changes to the existing functional constituencies except to update the names of certain bodies or members of bodies which comprise the electorate of some functional constituencies and to delete those that have ceased operation. The Administration has set out a list of the updates at Annex E and a list of the deletions at Annex F to the LegCo Brief. As regards the rate of financial assistance to eligible candidates of LegCo election, the Bill proposes to increase it from \$11 to \$12 per vote.

8. To address the concerns over overseas organizations being allowed to vote in functional constituencies, the Bill proposes to add a new provision so that consular posts and international organizations set out in the Consular Relations Ordinance (Cap. 557), International Organizations and Diplomatic Privileges Ordinance (Cap. 190) and International Organizations (Privileges and Immunities) Ordinance (Cap. 558) are disqualified from registration as corporate voters in functional constituencies.

Public Consultation

9. The Administration published in November 2009 the "Consultation Document on the Methods for Selecting the Chief Executive and for Forming the LegCo in 2012" and in April 2010 the "Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the LegCo in 2012".

Consultation with LegCo Panel

10. On 30 October 2010, the Panel on Constitutional Affairs was briefed on the proposed arrangement regarding the methods for selecting the Chief Executive and for forming the Legislative Council in 2012.

11. On the method for forming LegCo in 2012, while some members expressed support for the "one-person-two-votes" proposal for returning the five new DC FC seats, some other members expressed dissatisfaction at the inequality

of voting rights, rights to nominate and to stand for election. Members generally supported a low nomination threshold for the new DC FC. There was suggestion that it be lowered to 10 nominations but some members accepted the Administration's proposal of 15 nominations. Members also held diverse views on the proposed election expenses limit of \$6 million. The Administration was also asked to increase more generously the financial provision to candidates and to broaden the electorate base of existing functional constituencies.

Conclusion

12. Members would certainly wish to set up a Bills Committee to study the Bill in depth.

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14 December 2010