

立法會
Legislative Council

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the Administration)

Panel on Constitutional Affairs

**Minutes of special meeting
held on Saturday, 18 June 2011, at 9:00 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon Margaret NG
Hon LAU Kong-wah, 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 WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon CHEUNG Hok-ming, GBS, 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 Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN
- Non-Panel member attending** : Hon LI Fung-ying, SBS, JP

Members absent : Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
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 Samson TAM Wai-ho, JP
Hon WONG Yuk-man

Public Officers attending : Session One to Three

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Joshua LAW Chi-kong
Permanent Secretary for Constitutional and Mainland Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional and Mainland Affairs

Session Four and Five

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Ms Adeline WONG Ching-man
Under Secretary for Constitutional and Mainland Affairs

Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary for Constitutional and Mainland Affairs

Session Six and Seven

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Ms Anne TENG Yu-yan
Principal Assistant Secretary for Constitutional and Mainland
Affairs

**Attendance by
invitation**

Session One

Young Democratic Alliance for Betterment of Hong Kong

Mr Holden CHOW
Chairman

Civic Party

Mr Dennis KWOK
Chairman of Constitution and Governance Branch

Young Civics

Miss Shirry HEUNG
ExCo

The Hong Kong Printers Association

Mr LAU Hoi-tung
Vice-Chairman of Supervisory Board

Member of Southern District Council
Mr TSUI Yuen-wa

Mr SO Cheuk-hei

Mr SIU Fai-wing

香港民生及法律權益協會

Mr Tim LEE
Chairman

Mr CHAN Kwong-shik

The Young Democrats

Mr LAM Lap-chi
Committee Member

粉麵炒糕館

Mr LEUNG Shu-tai
Chairman

畸型目特衰正苦惱殘膠官禮義廉行為關注組

Mr MOK Wai-kit
Chairman

Snake Vegetable Mooncake Join Union

Mr CHIN Wai-lok
Chairman

Yat Tung Community Network Association

Mr KWOK Chung-man

Fortresshill Research Institute

Mr AU Nok-hin
Volunteer

Bolshevik Bourgeoisie Policy Institute

Mr Jacky LEE
Chairman

League of Social Democrats

Mr WONG Ho-ming
Executive Committee

Session Two

Social Policies Committee of HKFTU

Mr WONG Foon
Representative

HK Human Rights Monitor

Mr LAW Yuk-kai
Director

The United Association of Artists of HK

Mr WONG Chau-tung
Chairman

Alliance for Universal Suffrage

Ms WONG Pik-wan
Deputy Convenor

Professor MA Ngok

Hong Kong Reporter

Mr CHAN Chi-chuen
COM. CEO

Power Vot

Mr LAM Yue-yeung
Chairman

Miss YUEN Mi-ming

全民發聲

Mr LAU Gar-hung

A J HK

Mr AU-YEUNG Ying-kit
Director

HK Book & Magazine Trade Association Ltd

Mr TSANG Hip-tai
Chairman

食物環境關注小組

Mr CHAN Leung-wai
Member

Mr CHENG Kwok-kee

Ms CHIK Yuk-chun

HK Redevelopment Concern Group

Mr NG Yin-keung
Chairman

Think Tank of New Territories Youth

Mr LI Sai-wing
Convenor

Mr TANG Wai-ping

Session Three

China Universities Alumni (H.K.) Association

Mr Patrick TSE
Vice-President

Mr LEUNG Pak-shing

Mr CHIN Poon-kong

中山大學香港校友聯合會

Mr CHIN Chi-yung, Barry

The Democratic Party

Mr LAM Tze-kin
Spokesman

Green Radio

Ms CHAN Kin-yee

Hong Kong Youth Association

Mr NG Wai-tat

Mr LU Hiu-tung

Mr TSANG Wai-sing

MPIA

Mr WONG Ka-hee
Director

Mr TAM Kwok-sun

立惡法扭曲民意部

Mr SO Ho

反對粗暴立惡法會議

Mr LAI Ka-long

補選遠勝鄰替委員會

Mr WONG Ka-lok

補選權乃天賦人權

Mr LEE Siu-cheong

Mr Joe YAU

Mr YUEN Chiu-tat

Session Four

Mr LIU Chiu-wa

Hong Kong Youth Development Network

Mr HUNG Siu-hong
Vice-convener

City Civic Network

Mr LAU Kwun-hang
Chairman

Hong Kong Federation of Students

Miss Daisy CHAN
Secretary-General

Session Five

Mr Andrew CHIU
Member of Eastern District Council

The Professional Commons

Mr S C LEUNG
Member, Strategy Committee

Mr TUNG Wai-ming

Community Development Initiative

Mr MO Kwan-tai, Michael
Senior Project Executive

高官心肺功能絕頂關注組

Mr YAM Wing-keung
Chairman

Mr NGAI Cheung-mong

Mr WONG Ngai-ming

Mr CHONG Kwok-keung

Session Six

Mr MAK Kwok-fung, Michael
Member of Wan Chai District Council

香港長樂聯誼會

陳曉津先生
副會長

Ms YUEH Hiu-fong, Abbie

Mr CHEUNG Wing-leung

Mr NG Chi-pui, Eric

Frontier

Mr SO Tat-leung

Mr AU Wai-kong

Mr LEUNG Kai-sing

Abolish Functional Constituency

Mr CHUNG Shek-yan
Representative

Mr LEE Wai-fung

Miss LEE Wai-yee

Mr CHEUNG yiu-pan

LINS

Miss LAN Man-ping
Committee

Mr Kwok Pui-kit

Session Seven

復旦大學同學會

Mr CHEN Kung-pao

香港新馬泰歸僑華人聯合會

Ms CHAN Tung-chieh

Mr SONG Sio-chong

Hong Kong Foshan Trader Association Ltd.

Mr TEO Kong-lap

Executive Vice Secretary-General

Federation of Hong Kong Kowloon New Territories Hawker Associations

Mr CHEUNG Chi-keung

Mr PANG Chi-sang

民間 1 人 1 票踢走功能組別運動

Ms CHAN Po-ying

繞民意立惡法無恥反對會

Mr YUEN Man-ho

The General Association of Xiamen (H.K.) Ltd.

Mr FANG Ping

Assistant Secretary-General

填補機制脫離民意團

Mr YIM Tat-ming

Hong Kong Hopeless

Mr YEUNG Ke-cheong
Convener

Mr CHENG Wing

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

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

Ms Wendy LO
Council Secretary (2)3

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- I. Arrangements for filling vacancies in the Legislative Council**
[LC Paper Nos. CB(2)1787/10-11(01), CB(2)1857/10-11(01) and CMAB C1/30/5]

Oral presentation by deputations/individuals

A summary of the views given by deputations and individuals on the arrangements for filling vacancies in the Legislative Council ("LegCo") is in the **Appendix**.

Session One

Discussion

2. Ms Emily LAU said that the Legislative Council (Amendment) Bill 2011 ("the Bill") had proposed a fundamental change which would have significant impact on the existing election system. She expressed dissatisfaction at the Administration's attempt to rush through the Bill within five weeks only. Mr Albert HO echoed a similar view, saying that the Hong Kong Bar Association ("the Bar Association") also pointed out that more time should be allowed to study the proposed replacement mechanism which represented a deprivation of Hong Kong citizens of their right to vote. He queried the need to enact the Bill within such a short period of time.

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3. Ms Emily LAU and Mr Albert HO asked Mr Holden Chow of Young Democratic Alliance for Betterment of Hong Kong whether he agreed to the handling of the legislative work by the Administration in such a hasty manner. Mr Holden CHOW said that the low turn-out for the 2010 LegCo by-election indicated that the general public did not support the resignation of the five LegCo Members for the purpose of initiating the so-called "referendum campaign" via the by-election. Young Democratic Alliance for Betterment of Hong Kong considered that there should be a new replacement mechanism in place to plug the loophole.

4. Referring to the view of Mr LAU Hoi-tung of the Hong Kong Printers Association that it was irresponsible for some LegCo Members to resign in order to trigger the "referendum campaign" via a by-election, Mr LAU Kong-wah invited Mr LAU's views on the comments of some deputations that the proposed replacement mechanism was a superficial proposal. Mr LAU Hoi-tung said that LegCo Members had a duty to represent the voice of different groups of the community and work towards the interests of the community. Some LegCo Members, however, could not accept any views which were different from theirs. Mr LAM Lap-chi of the Young Democrats said that the proposed replacement mechanism deprived electors of their basic right to vote. The proposal under which the vacant seat left by the resigned Member might be filled by another candidate of different political affiliations was also at variance with other replacement arrangements adopted in overseas jurisdictions.

5. Mrs Regina IP said that different replacement arrangements for filling vacancies of Members were adopted in the light of the historical and political background of different countries. She pointed out that a vacancy of a Senator was appointed by the State Governor in some states of the United States. She invited views from the deputations on whether such an arrangement was contrary to human rights principles. Mr AU Nok-hin of Fortresshill Research Institute said that while he appreciated that different mechanisms were adopted in different countries due to historical reasons, he considered that the abolition of the by-elections was contrary to Basic Law ("BL") and did not give due consideration to the actual situation of Hong Kong. He said that a vacancy arose from other situations such as the death of a Member could only be filled by the conduct of a by-election. In the absence of a by-election, the vacant seat should at least be filled by the next candidate of the same political affiliation on the same list.

6. Ms Audrey EU said that some people tended to bundle the "referendum campaign" with the proposed replacement mechanism and assumed that those

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who did not support the "referendum campaign" would necessarily agree with the proposed replacement mechanism. Ms EU pointed out that there were two Hong Kong Island geographical constituency ("GC") by-elections before the 2010 LegCo by-election. The voter turnout rates of these two contested by-elections were satisfactory compared with that of a general election. The voter turnout rate of the 2007 by-election was even over 50%, much higher than that of a general election. In her view, one could only conclude that the turn-out for the 2010 LegCo by-election was low because the election was an uncontested one as the opponents of the participating candidates did not run for the election. She did not subscribe to the view that a low turn-out for the 2010 LegCo by-election meant that people did not want a by-election to be conducted to fill any future vacancy. She considered that a public consultation should be conducted to gauge the views of the public on the proposed replacement mechanism. Secretary for Constitutional and Mainland Affairs ("SCMA"), however, was of the view that the "referendum campaign" lacked the general support of the community.

7. Dr Priscilla LEUNG opined that the "referendum campaign" was indeed related to the proposed amendment to the Legislative Council Ordinance ("LCO"). There were real concerns that District Council ("DC") (second) functional constituency ("FC") Members to be returned from the whole Hong Kong Special Administrative Region ("HKSAR") as a single constituency and their party colleagues might resign in turn to set in motion "referendum campaigns" via by-elections for political purposes. She considered that the spending of public funds for conducting a by-election was not a main concern but the resignation of LegCo Members to trigger a by-election would affect adversely the smooth operation of LegCo and the work of other LegCo Members. In response to Dr LEUNG, Mr AU Nok-hin said that it was illogical to have the vacant seat to be filled by another candidate of different political affiliations under the proposed replacement mechanism.

8. Mr Alan LEONG said that LegCo Members who resigned to initiate the "referendum campaign" via a by-election had put their political career at risk. It was unrealistic to assume that a LegCo Member would resign any time to stage a "referendum campaign". He found it hard to accept the Administration's reasoning that there was urgency for enactment of the Bill on the ground that the voter turnout rate for the 2010 LegCo by-election was low and time was needed to educate electors that their votes would carry the dual-effect of voting LegCo Members into office and forming the precedence list of candidates as replacements for filling vacancies under the replacement mechanism. Mr LEONG sought elaborations from Mr Jacky LEE of

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Bolshevik Bourgeoisie Policy Institute on how electors could vote for the replacement candidates at the time of voting at a general election. Mr Jacky LEE considered that a seat arose mid-term should best be left vacant during the rest of the term of LegCo instead of conducting a by-election.

9. Mr Paul TSE said that while he agreed that the Administration should consult the public on the proposed replacement mechanism as far as possible, he considered that the length of the consultation period might not necessarily affect the quality of the consultation.

10. Mr IP Kwok-him said that similar to many overseas jurisdictions, Hong Kong had all along adopted the proportional representation system. He pointed out that in many overseas jurisdictions, a replacement system was put in place to fill vacancies instead of holding by-elections. He invited Mr Dennis KWOK of Civic Party to elaborate on how the proposed replacement mechanism was contrary to BL and deprived the public of their right to vote. Mr Dennis KWOK said that different political systems were adopted in overseas jurisdictions due to different historical background. He stressed that electors should not be deprived of the right to vote as prescribed in Article 25 of the International Covenant on Civil and Political Rights ("ICCPR"). Enough time should be allowed for an in-depth discussion on the proposed replacement arrangement which proposed a fundamental constitutional change.

Administration's response to the views of deputations/individuals

11. Referring to the comment of Mr Holden CHOW that the proposed replacement mechanism was at variance with other replacement arrangements of the overseas jurisdictions, SCMA said that the proposed replacement mechanism under which the vacancy arose mid-term in LegCo would be filled by the first candidate who had not been elected on the list with the largest number of remainder votes had taken into account the situation in Hong Kong and was consistent with the proportional representation system.

12. SCMA agreed with the view of Mr LAU Hoi-tung that LegCo Members should be held accountable to their electors. Once an incumbent Member resigned, his votes should therefore go with him as he had already used the quota of the votes to take up his seat.

13. Noting the view of Mr Tim LEE of 香港民生及法律權益協會 that the 2.7 million of electors who did not vote in the 2010 by-election might not agree with the introduction of the proposed replacement mechanism, SCMA said that

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the low voter turnout rate for the 2010 by-election indicated that the "referendum campaign" lacked general public support. It was the general view of the community that changes should be made to the existing electoral process in accordance with BL to plug the loophole.

14. In response to Mr LAM Lap-chi, SCMA said that the conduct of the public hearing on the proposed replacement mechanism bore evidence that the HKSAR Government was willing to listen to public views. He clarified that the proposed replacement mechanism was in line with the proportional representation system which was different from the bloc voting system adopted in the election of the Hong Kong deputies to the National People's Congress.

15. On the question of whether the proposed replacement mechanism was in conformity to BL raised by Mr AU Nok-hin, SCMA said that the proposed method was consistent with BL as the candidate selected to fill the casual vacancy was chosen by reference to the result of the previous general election and LegCo would continue to be "constituted by election" even with the replacement mechanism introduced.

Session Two

Discussion

16. Dr Margaret NG expressed concern that the Administration had not conducted any comprehensive public consultation on the replacement mechanism which proposed a fundamental change to the right of electors in LegCo general elections and by-elections. She invited Professor MA Ngok's views on the lack of public consultation on the proposed arrangement. Professor MA said that the active participation of the deputations attending the public hearing indicated that there were diverse views on the proposed replacement mechanism. He considered that the Administration should allow more time for debate within the community on the proposal which would have significant impact on the election system.

17. Ms Emily LAU reiterated her dissatisfaction with the Administration's attempt to rush through the Bill within a short period of time. Noting that a by-election would not be conducted to fill a vacancy in some overseas jurisdictions, she invited Professor MA's views on the replacement arrangement of overseas jurisdictions.

18. Professor MA said that in most overseas countries where the list proportional representation electoral system was practiced, any casual vacancy

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would normally be filled by the first candidate who had not been elected on the same list of candidate as the resigned Member. Such arrangement could ensure the proportion of seats according to the result of the previous general election. It should also be noted that in some situations where a vacancy arose mid-term (e.g. the death of a Member) were outside the control of the Member. As the proportional representation system had long been adopted in Hong Kong over the years and the community did not raise any objection to the conduct of the by-elections in the past, the Administration should solicit support from the public before introducing any changes to the existing electoral system.

19. Mr LAU Kong-wah echoed the view of Mr LI Sai-wing of Think Tank of New Territories Youth that the community would have to pay a high price if the electoral system was abused. Mr CHENG Kwok-kee said that the resignation of LegCo Members at will to trigger the "referendum campaign" via a by-election was a waste of public money and resources and had an adverse impact on the economic development of Hong Kong. He considered that LegCo Members should focus more on economic development and livelihood issues. Ms CHIK Yuk-chun said that a vacancy in the membership of LegCo should not be replaced by a candidate who had lost in the previous general election. The public should be given the right to vote in a by-election.

20. Ms Audrey EU expressed dissatisfaction that the Government did not conduct any public consultation on the proposed replacement mechanism which deprived the right of the public to stand for and to vote in a by-election. She considered that the Government had only followed the order of the Central Authorities but did not listen to public views in the policy-making process. In her view, the 2010 "referendum campaign" was not a fruitless campaign. The introduction of the replacement mechanism by the Administration to prevent another "referendum campaign" proved the efficacy of the action. SCMA reiterated that it was a fact that the 2010 by-election had a low voter turn-out rate.

21. Dr Priscilla LEUNG said that BL did not provide for any referendum system. She stressed that there was a possibility that an elected Member and his/her party colleagues on the same list of candidates might resign in turn to set in motion "referendum campaigns" via by-elections for political purposes. Noting Professor MA's views that a vacancy should be filled by the next candidate on the same list as the resigned Member, she invited Professor MA to elaborate on his stance.

22. Professor MA said that even BL did not provide for any referendum system, the resignation by a LegCo Member to express his/her views was

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constitutionally permissible. He envisaged that the possibility for an elected Member and his/her party colleagues to resign in turn to set in motion "referendum campaigns" via by-elections was rather slim as an elected Member would not give up his seat easily to another candidate. A political party would also run the risk of losing the support of the public if its members resigned from LegCo in turn. He emphasized that the Administration should not deprive the public of their right to vote in a by-election simply on the ground that the existing electoral system was abused by some parties.

23. Mr LEE Wing-tat said that the Administration should not refuse to conduct a public consultation simply on the ground that the 2010 LegCo by-election had a low turn-out. The Administration should explain clearly the rationale for proposing a replacement mechanism which was at variance with the replacement arrangement adopted in overseas jurisdictions. He shared the view of Professor MA that a LegCo Member would have to pay a price if he decided to resign lightly.

Administration's response to the views of deputations/individuals

24. In response to the comment of Mr LAW Yuk-kai of HK Human Rights Monitor that the Administration proposed the replacement mechanism because it was an order of the Central Authorities, SCMA said that the general public did not support the 2010 "referendum campaign". The replacement mechanism was put forward to plug a loophole in the existing replacement arrangement in order to address the perceived mischief.

25. On the remark made by Ms WONG Pik-wan of Alliance for Universal Suffrage that the Administration's proposal was illogical, SCMA reiterated that it was legitimate for the Administration to deal with the issue of the 2010 "referendum campaign" which apparently lacked the support of the general public. It was for LegCo to decide whether to support the proposal.

26. Referring to the comment of Professor MA that the Administration should not amend the existing electoral system simply on the ground that the system was abused, SCMA said that the Administration had considered the electoral system of overseas jurisdictions and the actual situation of Hong Kong in proposing the replacement arrangement. The Legislature should decide whether the proposed replacement mechanism should be adopted.

27. On the question raised by Mr LAU Gar-hung of 全民發聲 as to why the proposed replacement mechanism would not be applied to FCs, SCMA said

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that as the single-seat single-vote system, instead of the list proportional representation voting system, was adopted for traditional FCs, it was not appropriate to apply the proposed arrangement to FCs.

28. SCMA expressed disagreement with the view of Mr AU-YEUNG Ying-kit of A J HK that the Administration's proposal was tailor-made for pro-establishment Members. He said that if the proposed replacement arrangement had been adopted, four out of the five vacant seats would have been taken up by the pan-democratic candidates after the resignation of the five LegCo Members in 2010.

29. In response to Ms CHIK Yuk-chun's concern on how electors should vote for the replacement candidates in a general election, SCMA said that electors should vote for a list of candidates they supported and their votes would collectively have the effect of identifying candidates for filling vacancies under the replacement mechanism. The more votes secured by a list of candidates, the higher chance for the candidates on that list to be returned as LegCo Members.

30. SCMA said that the majority of the public shared the view of Mr CHAN Leung-wai of 食物環境關注小組 that the conduct of the 2010 by-election was a waste of public money and resources. The 2010 by-election triggered by the resignation of LegCo Members to initiate the "referendum campaign" was an artificial by-election compared to the past by-elections held in 2000 and 2005.

31. On the remark of Mr LI Sai-wing that the community should not be indulged in political games, SCMA said that the proposed replacement mechanism was put forward to address the perceived mischief. The proposal for not filling a vacancy with a candidate on the same list as the resigned Member was to avoid a Member handing over his seat to a successor of the same affiliation.

Session Three

Discussion

32. Dr Margaret NG opined that the conduct of a by-election enabled electors to cast their votes according to the prevailing performance of candidates and social circumstances. The replacement mechanism would distort the will of the electorate and deprive electors of their right to vote in a

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by-election. She stressed that the 2010 "referendum campaign" was not a political game. She echoed the view that it was a hard decision for an elected Member to resign and take the risk to stand again in a by-election.

33. Mr LEUNG Kwok-hung opined that the proposed replacement mechanism would mainly deprive electors of their right to vote in a by-election, instead of the right to stand for in a by-election. As electors were given a chance to express their views and dissatisfaction at the LegCo Members who had initiated the "referendum campaign" in the 2010 by-election, he did not see the need to abolish LegCo by-elections altogether. He would seek judicial review of the proposed replacement arrangement if it was to be implemented.

34. Mr LAU Kong-wah echoed the point made by Mr CHIN Chi-yung of 中山大學香港校友聯合會 that there were growing disputes and acts of violence in LegCo meetings in recent years. Mr LAM Tze-kin of the Democratic Party expressed opposition to the proposed replacement mechanism. He expressed dissatisfaction that the Administration did not explain clearly to the public that the proposed replacement mechanism was not strictly modeled on overseas systems.

35. Ms Emily LAU said that the Democratic Party was opposed to the proposed replacement mechanism. She asked Mr Patrick TSE of China Universities Alumni (H.K.) Association and Mr CHIN Poon-kong whether they agreed that by-elections should be abolished simply on the ground that the 2010 by-election had a low turn-out. Mr Patrick TSE said that he did not consider that the right of the public to vote in and to stand for in a by-election would be deprived of under the proposed replacement mechanism. He considered it appropriate for the Administration to seek changes in the electoral process to prevent the abuse of the existing electoral system. Mr CHIN Poon-kong said that LegCo Members should not abuse the electoral system. He believed that the Administration in introducing the new replacement arrangement had also considered many factors apart from the low voter turn-out rate of the 2010 by-election.

36. Mr Paul TSE said that the established electoral arrangement that the public had the right to vote for their representatives to sit on LegCo once every four years should be observed. He did not subscribe to the view that the proposed replacement arrangement would deprive the public of their right to stand for and to vote in a by-election. He further elaborated that some legislators in the United Kingdom ("UK") had also resigned and stood for by-elections again. The adoption of the first-past-the-post voting system in

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UK, its smaller size of the constituencies and mature democratic culture, however, could prevent the abuse of its electoral system. He added that the frequent conduct of by-elections would be a strain on public funds. It should therefore be explored whether changes should be introduced to enhance the existing electoral system to avoid abuses.

Administration's response to the views of deputations/individuals

37. In response to the views expressed by Mr LAM Tze-kin, Mr SO Ho, Mr TAM Kwok-sun and Mr YUEN Chiu-tat, SCMA stressed that the record low voter turnout rate of the 2010 by-election indicated that the general public did not support the "referendum campaign". It was legitimate for the Administration to plug the loophole of the existing replacement system. The proposed replacement mechanism under which the vacancy would be filled by the first candidate who had not yet been elected on the list with the largest number of remainder votes was indeed at variance with the replacement arrangements adopted in overseas jurisdictions such as Finland and Germany. SCMA further said that the Administration had done its utmost in the pursuit of democracy. The attainment of the timetable for implementing universal suffrage for the Chief Executive ("CE") election in 2017 and forming of LegCo in 2020 by the Administration bore evidence that the Government was loyal to the Hong Kong community.

38. In response to Ms CHAN Kin-ye of Green Radio, SCMA said LegCo Members should serve on the Council for four years and should not resign at will. He clarified that a by-election would be held if the persons on the precedence lists were exhausted and the vacancy could not be filled by the operation of the replacement mechanism. Any seat arose in mid-term would not be left vacant under the proposed replacement mechanism.

39. On the comment of Mr NG Wai-tai of Hong Kong Youth Association that the "referendum campaigns" was a farce that should be prevented, SCMA said that the proposed replacement mechanism sought to address the perceived mischief.

40. Regarding the comment of Mr WONG Ka-hee of MPIA that different replacement arrangements should be adopted to fill vacancies arising in different situations, SCMA said that the Administration held the view that the adoption of the same replacement mechanism to fill vacancies arising in different situations would be more able to withstand a legal challenge in the court.

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41. In response to Mr TAM Kwok-sun, SCMA said that the proposed replacement mechanism was in compliance with BL as the result of the preceding general election would form the basis of returning a candidate to fill a vacancy.

42. On the remark of Mr LAI Ka-long that electors should be given the opportunity to express their views on the resignation of LegCo Members in a by-election, SCMA said that electors had indeed expressed their views in the 2010 by-election. Having considered the conduct of the 2010 by-election triggered by the "referendum campaign", some LegCo Members decided to support the 2012 constitutional reform proposal.

43. In response to the question on why the proposed replacement mechanism would not be applied to traditional FCs raised by Mr Joe YAU, SCMA reiterated that as the single-seat single-vote system was adopted for traditional FCs, it was not appropriate to apply the proposed replacement mechanism to FCs.

Session Four

Discussion

44. In response to the enquiry of Mr LAU Kong-wah on the reasons for supporting the proposed replacement mechanism, Mr HUNG Siu-hong of Hong Kong Youth Development Network said that the conduct of a by-election was only one of the means to fill a vacancy. He did not consider that the proposed replacement mechanism under which the vacancy would be filled by a candidate with the largest number of remainder votes according to the votes cast in the previous general election would deprive the public of their right to vote. On the contrary, the proposed method was cost-effective and worthy of support.

45. Noting that Mr LAU Kwun-hang of City Civic Network was opposed to the proposed replacement mechanism, Mr LAU Kong-wah invited his views on the lack of general support for the "referendum campaign". Mr LAU said that electors should still be given the opportunity to express their views, including their objection to the "referendum campaign", in a by-election.

46. Ms Emily LAU asked Mr LIU Chiu-wa and Mr HUNG Siu-hong whether they agreed with the abolition of the by-elections on the ground that the 2010 by-election had a low turn-out. Mr LIU pointed out that the voter

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turnout rate of the 2010 by-election was low compared with other LegCo elections in the past. It indicated that the Hong Kong community did not support a by-election triggered by the resignation of LegCo Members to instigate the "referendum campaign". Mr HUNG shared the view that the public did not vote in the 2010 by-election because they were opposed to the "referendum campaign" which was considered a waste of public money. It was necessary to amend the legislation to plug the loophole.

47. Mr Alan LEONG reiterated that he had lived up to his pledge to his electors by initiating the "referendum campaign" to fight for abolition of FCs. He considered it unfair to deprive the public of their right to vote in a by-election simply on the ground that the 2010 by-election had a low turn-out. He asked Mr LIU Chiu-wa and Mr HUNG Siu-hong whether they agreed that DC elections should be abolished if the coming 2011 DC election had a low turn-out. He also sought their views on how electors could vote for the replacement candidates at the time of voting at a general election when they had no idea when and how a vacancy would arise in future.

48. Mr HUNG Siu-hong said that there was also no way for electors to ascertain that the candidates they voted for could complete their four-year term of office to serve the community at the time of voting at any elections. He said that some electors did not cast their votes in LegCo elections because they anticipated that the candidates they supported had a slim chance to win. He believed that more people would exercise their voting rights in LegCo elections if they knew their votes would have the effect of identifying candidates for filling vacancies. Mr HUNG stressed that although it was permissible under law to conduct a by-election triggered by the resignation of LegCo Members to instigate the "referendum campaign", it was not reasonable to do so. Mr LAU Kong-wah echoed the view of Mr HUNG that the general public was against the conduct of the "referendum campaign" via a by-election which was considered a waste of public money.

49. Mr LIU Chiu-wa said that the resignation of the five LegCo Members to instigate the "referendum campaign" via a by-election was against the expectation of the public that LegCo Members they voted for would complete their term of office to serve the community. He considered that the proposed replacement mechanism could plug the loophole in the existing replacement system.

50. Dr Margaret NG said that it was absurd that the Administration had only addressed the concerns of those who did not vote in the by-election but ignored

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the aspirations expressed by electors who voted in the 2010 by-election. In her view, people who did not support the "referendum campaign" might not necessarily agree with the deprivation of their right to vote in a by-election. The pursuit of democracy should not be compromised due to the monetary and resources concerns. The objective of the "referendum campaign" was to fight for the abolition of FCs, so as to pave way for further democratic development and to facilitate the formulation of policies to respond to the needs of the community. SCMA responded that the low turn-out of the 2010 by-election indicated that the "referendum campaign" was an unsuccessful social campaign.

51. Miss Daisy CHAN of Hong Kong Federation of Students said that the proposed replacement mechanism was unlawful because it deprived the public of their right to vote in a by-election. It was unreasonable for the Administration to rush through the Bill with the support of pro-establishment Members within a very short period of time. The Administration also ignored the expression of will of those who had voted in the 2010 by-election.

52. Mr Paul TSE reiterated his view as expressed in the previous sessions. He further said that the low turn-out of the 2010 by-election indicated that the public did not support the "referendum campaign". He did not subscribe to the view that the Administration justified the deprivation of the right of the public to vote in a by-election on the ground that the 2010 by-election had a low turn-out. He considered that the Administration should enhance its effort in gauging public views on the proposed replacement mechanism.

Administration's response to the views of deputations/individuals

53. In response to the remark of Mr LIU Chiu-wa and Mr HUNG Siu-hong that the candidate to replace the vacancy might not secure a high number of votes as the resigned Member, SCMA said that according to the results of the 2008 LegCo election, most of the first candidates who had not yet been elected in each list of candidates in respective GCs could obtain around 20 000 votes. If the proposed replacement mechanism was adopted at that time, the vacant seats would have been replaced by candidates who had secured enough votes to reflect the overall will of the electorate.

54. On the concerns of Mr LAU Kwun-hang that the vacant seat left by the resigned Member might be filled by another candidate of different political affiliations, SCMA said that subject to the results of the previous general election, the vacant seat could be filled by a candidate on the same list as the resigned Member or a candidate on a different list. Such arrangement gave

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effect to the expression of the will of the electors in the previous general election as a whole.

55. SCMA did not agree with the view of Miss Daisy CHAN that the proposed replacement mechanism was a retrogressive proposal for democracy. He said that the Administration had strived for maximum room to roll forward constitutional development and was successful in attaining a timetable for implementing universal suffrage.

Session Five

Discussion

56. Mr Alan LEONG reiterated that he had fulfilled his commitment to electors by fighting for dual universal suffrage in 2012 via the "referendum campaign". He invited the views of Mr TUNG Wai-ming and Mr NGAI Cheung-mong on the conduct of the "referendum campaign" via a by-election for the public to express their views on the existing political system. Mr TUNG and Mr NGAI opined that the conduct of the "referendum campaign" was a waste of public money. The resources spent should be used to create job opportunities instead. They considered that LegCo Members should focus more on livelihood issues. Mr LAU Kong-wah echoed a similar view. Dr Margaret NG said that Mr Alan LEONG had put in much effort on livelihood issues and had truly lived up to his pledge to his electors.

57. In response to the enquiry of Mr LAU Kong-wah on the reasons for not supporting the proposed replacement mechanism which was in line with the spirit of the proportional representation system, Mr Andrew CHIU said that the Administration should think through the issue on the electoral system before introducing the Bill.

58. Dr Margaret NG expressed dissatisfaction that the Administration did not conduct any public consultations on the Bill before its introduction into LegCo and urged the Administration to withdraw the Bill. She cautioned that the proposed replacement mechanism would not only deprive the public of their rights to vote in a by-election but also affect the way of voting of electors at a general election.

59. Expressing concern about the Administration's attempt to rush through the Bill within a very short period of time, Ms Emily LAU asked the deputations whether they agreed that the matter should be brought to the court

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for a ruling. Mr SC LEUNG of the Professional Commons expressed opposition to the proposed replacement mechanism. As the proposed replacement arrangement would deprive the public of their basic right to vote in a by-election as provided for in BL, he believed that a lot of people would agree to bring the matter to the court.

60. Mr Paul TSE reiterated his view as expressed in the previous session. Mr IP Kwok-him said that the filling of vacancies by holding a by-election was not in line with the spirit of the proportional representation system. He did not subscribe to the view that the filling of vacancies by reference to votes cast in the previous general election under the proposed replacement mechanism was contrary to the proportional representation system.

61. Mr LEE Wing-tat enquired about the response of the Administration to the views of the Bar Association about the non-conformity of the proposed replacement mechanism with BL. SCMA replied that as the replacement would be chosen based on the result of the previous general election under the proposed method, LegCo would continue to be "constituted by election" under BL 68 even with the replacement mechanism introduced. The right of permanent residents who were registered electors to vote in and to stand for election provided for in BL 26 was in no way affected by the proposed replacement mechanism. The introduction of the Bill was also consistent with Annex II to BL as the Bill had been introduced by the HKSAR Government and it was for LegCo to consider whether it was to be passed into law.

Administration's response to the views of deputations/individuals

62. On the concern of Mr Andrew CHIU that a Member might hand over his seat to a candidate of different political affiliations under the proposed replacement mechanism, SCMA said that such problem might worsen if the vacancy was to be filled with a candidate on the same list as the resigned Member. SCMA echoed the view of Mr CHIU that electors in Hong Kong tended to cast their votes on the basis of the lists which had candidates who were more well-known. The proposed replacement mechanism under which the vacancy would be filled by the first candidate who had not yet been elected in the list with the largest number of remainder votes had taken into account the situation in Hong Kong.

63. Regarding the concern of Mr S C LEUNG that the candidate to replace the vacancy might not secure a high number of votes as the resigned Member, SCMA assured that the proposed arrangement was in line with the spirit of the proportional representation system.

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64. On the remark of Mr YAM Wing-keung and Mr MO Kwan-tai of Community Development Initiative that some LegCo Members and government officials had low popularity ratings, SCMA replied that all LegCo Members and government officials should respond to public needs and work towards the interests of the community.

Session Six

Discussion

65. Dr Margaret NG reiterated that the objective of the "referendum campaign" was to fight for the abolition of FCs, so as to pave way for further democratic development and to facilitate the formulation of policies to respond to the needs of the community. The five LegCo Members did not resign at will and their resignation to initiate the "referendum campaign" was a hard decision to make.

66. Mr LAU Kong-wah shared the views of Ms YUEH Hiu-fong, Mr CHEUNG Wing-leung and Mr NG Chi-pui that the "referendum campaign" was a farce initiated by some LegCo Members who put the interests of their political parties before the public interests, and the proposed method to fill vacancies according to the results of the previous LegCo general election would not deprive the public of their right to vote in a by-election. He also echoed the view of Mr LEUNG Kai-sing and Miss LAN Man-ping that there was a need to amend LCO to prevent Members from resigning at will.

67. Mr AU Wai-kong asked about the views of Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") on the proposal of filling vacancies by another candidate of different political affiliation. Mr LAU Kong-wah said that four out of five vacant seats arising from the resignation of the five LegCo Members in 2010 would be filled by pan-democrats if the proposed replacement mechanism was adopted at that time. Yet, DAB still supported the proposal because the issue should be considered in the broader context of public interests.

68. Dr Priscilla LEUNG reiterated that there were real concerns that some LegCo Members might resign in turn in future to set in motion "referendum campaigns" via by-elections for political purposes. She stressed that BL did not provide for any referendum system and the resignation of LegCo Members to trigger a by-election would affect adversely the smooth operation of LegCo

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and the work of other Members. Mr Jeffrey LAM shared the view that the conduct of the "referendum campaign" via a by-election was an abuse of the electoral system and had an adverse impact on the operation of LegCo.

69. Mrs Sophie LEUNG echoed the view of Miss LAN Man-ping and Mr Kwok Pui-kit that Hong Kong people did not want continuous disputes over political issues. She opined that well-known political figures always stood a much higher chance in gaining seats in a by-election. The proposed replacement arrangement, on the other hand, could open up opportunities to less well-known candidates. Mr Paul TSE echoed her view. He further said that Hong Kong should focus on learning good experience of other jurisdictions, such as UK, in the pursuit of democracy.

70. Referring to the remark of Miss LAN Man-ping that LegCo Members should concentrate more on livelihood issues, Mr Alan LEONG said that many motions urging the Government to tackle livelihood issues were vetoed under the existing structure of LegCo. Democratization and betterment of livelihood should go hand-in-hand. On the remark of Mr CHEUNG Wing-leung that some LegCo Members had put the interests of their political parties before public interests, Mr Alan LEONG said that he appreciated that some people might not support the "referendum campaign". It should be noted that, however, those Members who resigned in 2010 had put their political career at risk by initiating the "referendum campaign". He added that he did not agree with the application of the proposed mechanism to other situations such as the death of a Member.

71. Mr Alan LEONG disagreed with the view of Ms YUEH Hiu-fong that the proposed replacement mechanism was in line with the spirit of the proportional representation system. He said that the proposed method would distort the will of the electorate as the vacant seat left by the resigned Member might be filled by another candidate of different political affiliations.

Administration's response to the views of deputations/individuals

72. On the concern of Mr MAK Kwok-fung that the proposed replacement arrangement was contrary to BL, SCMA said that the proposal was consistent with BL 26 as the right of permanent residents who were registered electors to vote in and to stand for in general elections was in no way affected by the proposed replacement mechanism.

73. SCMA echoed the view of Mr CHEUNG Wing-leung that there was a need to introduce legislative proposals to prevent LegCo Members from

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resigning at will and to plug the loophole in the existing replacement system. SCMA disagreed with the view of Mr SO Tat-leung of Frontier that the proposed replacement arrangement would distort the will of the electorate. He said that the proposed replacement method was based on the result of the previous general election and gave effect to the free expression of the electorate.

74. Referring to the remark of Mr AU Wai-kong that the candidate to replace the vacancy might not secure a high number of votes as the resigned Member, SCMA reiterated that according to the results of the 2008 LegCo election, most of the first candidates who had not yet been elected in each list of candidates in respective GCs could obtain around 20 000 votes. If the proposed replacement mechanism was adopted at that time, the vacant seats would have been replaced by candidates who had secured enough votes to reflect the overall will of the electorate.

75. On the remark of Mr CHUNG Shek-yan of Abolish Functional Constituency that there were flaws with the existing electoral system, SCMA said that the Administration had rolled forward the constitutional development of Hong Kong by attaining the timetable for implementing universal suffrage and adopting the "one-person-two-votes" proposal for returning the five new DC FC seats in 2012. In response to Mr LEE Wai-fung's enquiry on whether a replacement mechanism would be adopted in the election of CE, SCMA explained that a replacement mechanism would not be adopted in the election of CE as the "single vote, single seat" voting method was adopted in that election.

76. In response to Miss LEE Wai-yee, SCMA said that the reservation in relation to Article 25 of ICCPR did apply to Hong Kong when the Government of the UK extended ICCPR to Hong Kong in 1976. Nevertheless, the Administration had rolled forward the constitutional development of Hong Kong by attaining the timetable for implementing universal suffrage.

77. In response to the concern of Miss LAN Man-ping and Mr Kwok Pui-kit about the livelihood issues of Hong Kong, SCMA said that the Administration had all along been promoting regional cooperation for the development of the Hong Kong economy.

Session Seven

Discussion

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78. Mr Albert HO considered that the Mainland authorities had exerted political pressure on the Hong Kong Government to introduce the Bill into LegCo. He reiterated his objection to the Administration's attempt to rush through the Bill which had not gone through a public consultation process.

79. Dr Margaret NG reiterated her views as expressed in previous sessions. She sought views from the deputations on whether they agreed that the Administration should withdraw the Bill. Ms CHAN Po-ying said that the Administration should let the public express their views on the Bill by voting.

80. Mr LAU Kong-wah invited Mr SONG Sio-chong's view on whether a vacancy should be filled by a candidate who belonged to the same political party as the resigned Member or by another candidate of different political affiliations and whether the proposed replacement arrangement should be applied to other situations (e.g. the Member lost the ability to discharge his duties due to illness). Mr SONG said that the application of the replacement arrangement should depend on the actual situation of Hong Kong. It might not be possible to fill the vacancy by a candidate who belonged to the same political party of the resigned Member in cases where there was only one candidate on the original list and where a list of candidates were formed by candidates from different political affiliations. He considered the Administration's proposal appropriate.

81. Mr Alan LEONG noted that Mr TEO Kong-lap of Hong Kong Foshan Trader Association Ltd. had expressed concern that a Member could hand over his seat to a successor of the same affiliation if the proposed replacement arrangement was adopted. He also noted that Mr CHENG Wing had reservations about the application of the proposed replacement mechanism to other situations such as the death of a Member. He asked them whether they would support the Administration's proposal if the Administration insisted on putting forward the Bill without considering their views.

82. Mr TEO Kong-lap said that he supported the proposed replacement mechanism in principle. However, he considered that the proposal could be refined further. For instance, a Member could leave the office when necessary without the fear that the vacant seat would be taken up by a candidate of different political affiliations. Mr CHENG Wing said that a by-election should be conducted to fill the vacancy arising due to other reasons such as the death of a Member.

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83. Mr Paul TSE said that instead of focusing the discussion on whether a by-election triggered by a "referendum campaign" should be prevented by amending the relevant ordinances, it should be explored whether the conduct of a by-election to fill a vacancy under the existing electoral arrangement was in line with the spirit of the proportional representation system and whether enhancement could be made to the existing replacement system.

84. Dr Priscilla LEUNG reiterated her views as expressed in previous sessions. She further said that a vacancy should not be filled by a candidate on the same list as the resigned Member in order to avoid a Member handing over his seat to a successor of the same affiliation. In her view, to plug the loophole in the existing replacement arrangement, Members who had resigned should be restricted from standing in any by-elections during the same term of LegCo for a certain period. She echoed the view of Mr CHENG Wing that the proposed replacement mechanism should not cover all situations where a vacancy arose mid-term.

Administration's response to the views of deputations/individuals

85. Referring to the concern of Mr SONG Sio-chong about the disparity of population among the existing five GCs, SCMA responded that the delineation of GCs according to the requirement that the ratio between the population and the number of seats in respective GCs should be within the $\pm 15\%$ limit prescribed in law had operated well over the years. According to past experience, a candidate would obtain around 30 000 to 50 000 votes cast for the GC concerned in order to secure a seat. He reiterated that if the proposed replacement mechanism was adopted in 2008, the vacant seats would have been replaced by candidates who had secured enough votes to reflect the overall will of the electorate.

86. Noting that Ms CHAN Po-ying's opposition to the FC system, SCMA said that universal suffrage for electing CE and forming LegCo would be implemented in 2017 and 2020 respectively. Hong Kong did not have a system of referendum before and after the 1997 handover. The issue on how universal suffrage could be implemented could be discussed in the coming years. SCMA did not agree with the view of Mr YIM Tat-ming that the Administration had betrayed Hong Kong. He reiterated that the Administration had attained the timetable for implementing universal suffrage for Hong Kong and would adopt the "one-person-two-votes" proposal for returning the five new DC FC seats in 2012. In response to Mr YEUNG Ke-cheong of Hong Kong Hopeless, SCMA said that the

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Administration would conduct LegCo elections and by-elections according to the established procedures and ensured that the civil servants recruited to carry out duties on the polling day would be suitably remunerated.

87. In response to the concerns of Mr TEO Kong-lap and Mr CHENG Wing, SCMA said that the proposed replacement mechanism would minimize the chance for a Member to hand over his seat to a successor of the same affiliation. He added that the Administration held the view that the adoption of the same replacement mechanism to fill vacancies arising in different situations would be more able to withstand a legal challenge in the court.

II. Any other business

88. There being no other business, the meeting ended at 6:38pm.

Council Business Division 2
Legislative Council Secretariat
1 March 2012

Panel on Constitutional Affairs

Arrangements for filling vacancies in the Legislative Council ("LegCo")

**Summary of the views and suggestions of the deputations/individuals
attending the special meeting on 18 June 2011**

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
1.	Young Democratic Alliance for Betterment of Hong Kong	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and time for the community, as well as an abuse of the existing electoral system.</p> <p>(b) The Administration's proposal for introducing a new replacement mechanism ("the proposed replacement mechanism") under which the vacancy arises mid-term in LegCo should be filled by the first candidate who has not yet been elected in the list with the largest number of remainder votes is supported as such mechanism is consistent with the proportional representation election system which has been adopted in LegCo election for geographical constituencies ("GCs") for years.</p>
2.	Civic party [LC Paper No. CB(2)2442/10-11(01)]	(a) Not enough time has been allowed for sufficient discussion and in-depth consideration of the constitutional implications arising from the proposed replacement mechanism in light of Articles 39 and 68 of the Basic Law ("BL"), and Article 25(b) of the International Covenant on Civil and Political Rights ("ICCPR").

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(b) The Legislature should ensure that the proposed replacement mechanism is justified, reasonable and in compliance with BL and ICCPR.
3.	Young Civics [LC Paper No. CB(2)2442/10-11(02)]	(a) The proposed replacement mechanism cannot reflect the essence of the proportional representation election system as it distorts the will of the electors who have voted for the resigned Member in the previous general election. (b) The proposed replacement mechanism does not serve to express the free will of the electors and deprives electors of their right to vote in a by-election.
4.	The Hong Kong Printers Association	(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and resources. The move went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community. (b) The proposed replacement mechanism for filling a vacancy arising from resignation of LegCo Members and other situations is supported.
5.	Mr TSUI Yuen-wa, member of Southern District Council	(a) It is unsatisfactory that the Administration has not conducted any public consultation on its proposed replacement mechanism which deprives the right of electors to vote in a by-election. (b) The proposed replacement mechanism contravenes the will of the electors expressed at the previous general election as the vacancy arises mid-term in LegCo will be filled by a candidate who has lost in the previous general election.

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(c) The proposed replacement mechanism does not reflect truly the essence of the proportional representation election system. It is at variance with the system adopted in some other overseas jurisdictions and electors of Hong Kong are not given the right to indicate their preference for candidates on the same list at the time of voting at a general election to specify their choice of back-up candidate to fill the vacancies arising from resignation or other situations.
6.	Mr SO Cheuk-hei	<p>(a) Introduction of a new replacement mechanism is supported but it should be revised to the effect that the vacancy arises mid-term in LegCo should be filled by the next candidate on the same list as the resigned member to reflect the will of the electors in the previous general election.</p> <p>(b) Only when the candidates on the same list as the resigned member are exhausted that the vacancy should be filled by a candidate on a different list with the highest remainder votes.</p>
7.	Mr SIU Fai-wing [LC Paper No. CB(2)2110/10-11(01)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community.</p> <p>(b) The proposed replacement mechanism for filling a vacancy arising from resignation of LegCo Members and other situations is supported.</p>
8.	香港民生及法律權益協會	(a) It is unsatisfactory that the Administration has not conducted any public consultation on its proposed replacement mechanism which deprives the public of their right to stand for and to vote in a by-election.

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		<p>(b) The proposed replacement mechanism distorts the will of the public. The low turn-out for the 2010 LegCo by-election does not necessarily mean that the majority of the public agree with the introduction of the proposed mechanism.</p> <p>(c) The application of the proposed replacement mechanism to cover all situations where a vacancy arises mid-term (such as when a Member passes away or is disqualified due to various reasons) is unjust and groundless.</p>
9.	Mr CHAN Kwong-shik	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money, resources and an abuse of the existing electoral system. The move went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community.</p> <p>(b) The proposed replacement mechanism which is effective in preventing LegCo Members from resigning at will and avoiding a Member handing over his seat to a successor of the same affiliation is supported.</p>
10.	The Young Democrats	<p>(a) It is unsatisfactory that the Administration has not conducted any public consultation on its proposed replacement mechanism on the ground that the "referendum campaign" in January 2010 was a waste of public money which necessitated legislative amendments to plug the loophole in the existing replacement system.</p> <p>(b) The proposed replacement mechanism distorts the will of the public. A "referendum mechanism" should be provided for in the legislation of Hong Kong.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
11.	Mr LEUNG Shu-tai 粉麵炒糕館	<p>(a) The proposed replacement mechanism distorts the will of the public and has not taken into account the fact that electors' preference for candidates may change due to changes in political and social circumstances, or subsequent behavior of the candidates concerned. Electors should be given the opportunity to vote in a by-election when a vacancy arises mid-term so that they can exercise their votes according to the prevailing circumstances.</p> <p>(b) It is unsatisfactory that the Administration has created unfairness by not applying the proposed replacement mechanism to traditional Functional Constituencies ("FCs") while depriving electors in GCs the right to vote in a by-election.</p>
12.	Mr MOK Wai-kit 畸型目特衰正苦惱殘膠官禮義 廉行為關注組	<p>(a) The proposed replacement mechanism is objected as it is unreasonable to introduce the mechanism simply on the ground that the by-election triggered by the resignation of the five LegCo Members in January 2010 to initiate the "referendum campaign" had a record low voter turnout rate of 17% and that the campaign was a waste of public money and resources.</p>
13.	Mr CHIN Wai-lok Snake Vegetable Mooncake Join Union [LC Paper No. CB(2)2442/10-11(03)]	<p>(a) It is highly unsatisfactory that the Democratic Party did not support the "referendum campaign" via a by-election.</p>
14.	Yat Tung Community Network Association [LC Paper No. CB(2)2442/10-11(04)]	<p>(a) The existing arrangement of having a vacancy arises mid-term in LegCo to be filled through the first-past-the-post voting system in a by-election can ensure representativeness of the elected Member.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(b) It is highly unsatisfactory that the proposed replacement mechanism deprives electors of their right to vote in a by-election.
15.	Fortresshill Research Institute [LC Paper No. CB(2)2442/10-11(05)]	<p>(a) The Administration's attempt to rush through the Legislative Council (Amendment) Bill 2011 ("the Bill") within a very short period of time without conducting any public consultation on the proposed replacement mechanism which is contrary to Article 68 of BL is objected to.</p> <p>(b) The proposed replacement mechanism under which the vacancy arises mid-term in LegCo will be filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes distorts the will of electors who may not wish to have the vacant seat left by the resigned Member filled by another candidate of different political affiliations.</p>
16.	Bolshevik Bourgeoisie Policy Institute	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" was a waste of public money.</p> <p>(b) The record-low voter turnout rate of the by-election indicated that many people did not support the so-called "referendum campaign". An "objection mechanism" should be introduced to let electors indicate their opposition to the conduct of by-elections by voting.</p> <p>(c) If the vacancy arises mid-term in LegCo cannot be filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes, the seat should be left vacant during the rest of the term of LegCo instead of conducting a by-election.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
17.	League of Social Democrats	<p>(a) The "referendum campaign" provided an opportunity for the public to express their support for the implementation of genuine universal suffrage and abolition of FCs by voting in the by-election, whereby public opinion could be quantified.</p> <p>(b) The Administration's attempt to rush through the Bill is strongly objected to as it affects the free expression right of the public and distorts the will of electors.</p>
18.	Social Policies Committee of HKFTU [LC Paper No. CB(2)2442/10-11(06)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The record-low voter turnout rate of the by-election indicated that many people did not support the so-called "referendum campaign."</p> <p>(b) The proposed replacement mechanism under which the vacancy arises mid-term in LegCo will be filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes can serve the purpose of preventing LegCo Members from resigning at will and participating in any by-elections.</p>
19.	HK Human Rights Monitor	<p>(a) The "referendum campaign" provided an opportunity for the public to express their support for the implementation of genuine universal suffrage and abolition of FCs by voting in the by-election.</p> <p>(b) The proposed replacement mechanism is contrary to Articles 19 and 29 of ICCPR which stipulate that people should have freedom of expression. It is unreasonable to introduce the proposed replacement mechanism simply on the ground that the by-election triggered by the resignation of the five LegCo Members in January 2010 to initiate the "referendum campaign" had a record low voter turnout rate of 17% and that the campaign was a waste of public money and resources.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
20.	The United Association of Artists of HK	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election which had a low turnout was a waste of public money.</p> <p>(b) The proposed replacement mechanism under which the vacancy arises mid-term in LegCo will be filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes is supported.</p>
21.	Alliance for Universal Suffrage [LC Paper No. CB(2)2110/10-11(02)]	<p>(a) The Administration's attempt to rush through the Bill within a very short period of time without conducting any public consultation on the proposed replacement mechanism which is contrary to BL is objected to.</p> <p>(b) The proposed replacement mechanism which deprives the public of their right to stand for and to vote in a by-election is strongly objected to.</p> <p>(c) The 17% voter turnout rate for the 2010 LegCo by-election does not necessarily mean that the majority of the public agree with the introduction of the proposed mechanism and it is misleading for the Administration to draw the conclusion that the public support the proposed mechanism.</p>
22.	Professor MA Ngok	<p>(a) The proposed replacement arrangement of having the vacancy filled by a candidate who has lost in the previous general election distorts the will of the electorate. The representativeness of LegCo as a whole will be affected should more vacancies be filled by this way under the new arrangement.</p> <p>(b) The new arrangement may lead to political disputes or even assassination in an extreme case, as the candidate ranks highest on the precedence list may try every</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		<p>mean to force an incumbent Member to step down from his office in order to replace that Member.</p> <p>(c) It is illogical for the Administration to deprive electors of their right to vote in a by-election simply on the ground that there is accusation that the existing electoral system has been abused.</p> <p>(d) The 17% voter turnout rate for the 2010 LegCo by-election may mean that the public did not support the "referendum campaign" but it does not necessarily mean that the majority of the public agree with the introduction of the proposed replacement mechanism. The Administration should conduct a comprehensive public consultation exercise on the proposed mechanism to gauge the public views.</p>
23.	Hong Kong Reporter	(a) The proposed replacement mechanism distorts the will of the electorate and the Democratic Party's refusal to support the "referendum campaign" has affected the voter turnout rate for the by-election.
24.	Power Voters	(a) Strong dissatisfaction was expressed against the introduction of the proposed replacement mechanism.
25.	Miss YUEN Mi-ming	(a) The introduction of the proposed replacement mechanism is retrogressive in the development of democracy as it deprives the public of their right to stand for and to vote in a by-election. The Administration should therefore withdraw the proposal.

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(b) The arrangement of having the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected in the list with the largest number of remainder votes lacks representativeness and endorsement of the electorate.
26.	全民發聲	<p>(a) The proposed replacement mechanism goes against the principle of the proportional representation system as the vacant seat may be filled by another candidate of a different political affiliation instead of the first candidate who has not been elected on the same list as the resigned Member. This arrangement is at variance with the proportional representation system commonly adopted by overseas countries where the vacancy will be filled by a candidate on the same list as the resigned Member.</p> <p>(b) Dissatisfaction was expressed against the Administration for creating unfairness by not applying the proposed replacement mechanism to traditional FCs while depriving electors in GCs the right to vote in a by-election.</p>
27.	AJ HK	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the "referendum campaign" via the by-election was not a waste of public money.</p> <p>(b) Strong dissatisfaction was expressed against the Administration for not paying any heed to the public views in introducing the proposed replacement mechanism.</p>
28.	HK Book & Magazine Trade Association Ltd	(a) LegCo Members should serve on the Council for four years and should not resign halfway at will.

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(b) The proposed replacement mechanism is supported so as to plug the loophole in the existing replacement system.
29.	食物環境關注小組	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and resources. Elected Members should serve on the Council for four years and should not resign halfway at will.</p> <p>(b) The proposed replacement mechanism is supported as it is in line with the spirit of the proportional representation system.</p>
30.	Mr CHENG Kwok-kee [LC Paper No. CB(2)2442/10-11(07)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and had an adverse impact on the economic development of Hong Kong. LegCo Members should serve on the Council for four years and concentrate more on livelihood issues.</p> <p>(b) The proposed replacement mechanism is supported. It is cost-saving and efficient to have the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected in the list with the largest number of remainder votes instead of holding a by-election.</p>
31.	Ms CHIK Yuk-chun [LC Paper No. CB(2)2442/10-11(08)]	<p>(a) The proposed replacement mechanism which deprives the public of their right to stand for and to vote in a by-election is strongly objected to.</p> <p>(b) The votes of electors cannot carry the dual-effect of voting Members into office and forming the precedence list of candidates as replacements for filling</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		<p>vacancies because there is simply no way for the electors at the time of voting to know how to vote for the replacement candidates.</p> <p>(c) Concern was expressed that the new arrangement may lead to political disputes, assassination in an extreme case, as a candidate ranks highest on the precedence list may try every means to force an incumbent Member to step down from his office in order to replace that Member.</p>
32.	HK Redevelopment Concern Group [LC Paper No. CB(2)2442/10-11(09)]	<p>(a) Concern was expressed that the new arrangement may lead to corrupt conduct as any candidates on the precedence list may try every means to force an incumbent Member to step down from his office in order to replace that Member.</p>
33.	Think Tank of New Territories Youth	<p>(a) The proposed replacement mechanism is supported as it can prevent a Member from handing over his seat to a successor of the same affiliation.</p>
34.	Mr TANG Wai-ping [LC Paper No. CB(2)2442/10-11(10)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The move went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community. The low voter turnout rate for the by-election indicated that the public did not support the "referendum campaign".</p> <p>(b) Concern was expressed that candidates from small parties stand a little chance of gaining seats under the first-past-the-post voting system adopted in a by-election under the existing replacement mechanism.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(c) The Administration should seek early enactment of the Bill for the implementation of the proposed replacement mechanism in order to plug the loophole in the existing replacement system.
35	China Universities Alumni (H.K.) Association [LC Paper No. CB(2)2110/10-11(03)]	(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election which had a low turnout was a waste of public money and resources. (b) The proposed replacement mechanism which is in conformity with BL is supported.
36.	Mr LEUNG Pak-shing [LC Paper No. CB(2)2442/10-11(11)]	(a) The conduct of a by-election under the existing replacement mechanism is objected to as it can be easily abused by some politicians and the high cost of holding a by-election will be a strain on the public funds. The first-past-the-post voting system adopted in the by-election is also contrary to the spirit of the proportional representation system adopted in a GC general election. (b) The proposed replacement mechanism is supported in order to plug the loophole in the existing replacement system.
37.	Mr CHIN Poon-kong	(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election which had a low turnout was a waste of public money and resources. The move went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community.

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		<p>(b) Candidates from small parties will stand a little chance of gaining seats under the first-past-the-post voting system adopted in the by-election. A new replacement arrangement whereby both large and small political parties stand a chance of gaining seats under the proportional representation system is preferred.</p> <p>(c) The proposed replacement mechanism is supported as it can reflect the will of the electorate by choosing the replacement based on the result of the previous general election.</p>
38.	中山大學香港校友聯合會	(a) The proposed replacement mechanism is supported to prevent the conduct of the so-called "referendum campaign".
39.	The Democratic Party [LC Paper No. CB(2)2110/10-11(04)]	(a) It is unreasonable to introduce the proposed replacement mechanism simply on the ground that the by-election triggered by the resignation of the five LegCo Members in January 2010 to initiate the "referendum campaign" had a record low voter turnout rate of 17%. The Administration should withdraw the proposal which deprives the public of the right to vote.
40.	Green Radio	<p>(a) It is unreasonable to introduce the proposed replacement mechanism simply on the ground that the by-election triggered by the resignation of the five LegCo Members in January 2010 to initiate the "referendum campaign" had a record low voter turnout rate of 17%.</p> <p>(b) The proposed replacement mechanism under which the vacancy arises mid-term in LegCo will be filled by the first candidate who has not yet been elected in the list with the largest number of remainder votes is at variance with the</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		<p>proportional representation system commonly adopted in overseas countries where the vacancy will be filled by a candidate on the same list as the resigned Member.</p> <p>(c) The proposed replacement mechanism is strongly objected to as it deprives the public of their right to vote and distorts the will of the electorate. The Administration should withdraw the Bill and conduct a comprehensive public consultation exercise on the proposed mechanism to gauge public views.</p>
41.	Hong Kong Youth Association [LC Paper No. CB(2)2110/10-11(05)]	<p>(a) The proposed replacement mechanism is supported as it can prevent the abuse of the existing electoral system and the conduct of the so-called "referendum campaign" via a by-election which was a waste of public money. The Administration should enact the Bill as soon as possible.</p> <p>(b) The proposed replacement mechanism is fair as a candidate on the same list as the resigned Member or a candidate from a list of a different political affiliation both stand a chance to fill the vacancy. It is also a cost-saving and effective method to fill the vacancy within a short time.</p>
42.	Mr LU Hiu-tung [LC Paper No. CB(2)2442/10-11(12)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and resources. LegCo Members should serve on the Council for four years and should not resign halfway at will.</p> <p>(b) The proposed replacement mechanism is supported as it is effective in preventing Members from resigning at will to trigger a by-election.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
43.	Mr TSANG Wai-sing	<p>(a) The proposed replacement mechanism is supported as it is effective in preventing Members from resigning at will to trigger a by-election and abuses of the existing electoral system by politicians. The low turn-out of the by-election in 2010 has indicated that the public do not support the so-called "referendum campaign".</p> <p>(b) The proposed replacement mechanism is in line with the spirit of the proportional representation system and can ensure that candidates from both small and large political parties stand a chance of gaining seats.</p>
44.	MPIA [LC Paper No. CB(2)2442/10-11(13)]	<p>(a) LegCo Members should serve on the Council for four years to represent their electors and should not resign halfway at will.</p> <p>(b) The vacancy arises from the resignation of a Member should be filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes but the replacement candidate should be required to secure a minimum threshold of valid votes to ensure representativeness.</p> <p>(c) Any vacancy arises from other situations (including those due to death, inability to discharge duties due to serious illness and disqualification of Members due to other reasons) should be filled by the candidate who ranks highest on the same list as the resigned Member.</p>
45.	Mr TAM Kwok-sun [LC Paper No. CB(2)2442/10-11(14)]	<p>(a) The proposed replacement mechanism is strongly objected to as it deprives electors of their right to stand for and to vote in a by-election.</p> <p>(b) The scope of the proposed replacement mechanism which will cover all situations where a vacancy arises mid-term is too wide.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
46.	Mr SO Ho 立惡法扭曲民意部	(a) The view that the resignation of the five LegCo Members in January 2010 for the purpose of initiating the "referendum campaign" via the by-election was a waste of public money is strongly objected to.
47.	Mr LAI Ka-long 反對粗暴立惡法會議	<p>(a) According to overseas experience, it is a common phenomenon for a by-election to have lower voter turnout rate than a general election. It is illogical for the Administration to deprive electors of their right to vote in a by-election simply on the ground that the 2010 LegCo by-election had a low voter turnout rate of 17%.</p> <p>(b) The 17% voter turnout rate for the 2010 LegCo by-election may mean that the public did not support the "referendum campaign" but it does not necessarily mean that the public is agreed to the proposal of abolishing a by-election.</p> <p>(c) It is unreasonable to fill the vacancy by the first candidate who has not been elected on the same list as the resigned Member or from a list of a different political affiliation. Electors should be given the right to vote in a by-election to express their will according to the prevailing circumstances.</p>
48.	Mr WONG Ka-lok 補選遠勝鄰替委員會	<p>(a) The proposed replacement mechanism goes against the principle of the proportional representation system and distorts the will of the electorate as the vacant seat may be filled by another candidate of a different political affiliation instead of the first candidate who has not been elected on the same list as the resigned Member. The arrangement also deprives electors of their right to stand for and to vote in a by-election.</p> <p>(b) Dissatisfaction is expressed against the Administration for creating unfairness by not applying the proposed replacement mechanism to traditional FCs while depriving electors in GCs the right to vote in a by-election.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
49.	Mr LEE Siu-cheong 補選權乃天賦人權	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the "referendum campaign" via the by-election was not contrary to BL and was not a waste of public money.</p> <p>(b) The proposed replacement mechanism under which the vacant seat may be filled by another candidate of different political affiliations is at variance with the proportional representation system commonly adopted in overseas countries where the vacancy will be filled by a candidate on the same list as the resigned Member.</p>
50.	Mr Joe YAU	<p>(a) The proposed replacement mechanism which is contrary to the interests of the general public is strongly objected to. The Administration should conduct a comprehensive public consultation on the proposed mechanism. The Administration should introduce the Bill only with the support of the majority of the public for the new replacement mechanism.</p> <p>(b) Dissatisfaction is expressed against the Administration for creating unfairness by not applying the proposed replacement mechanism to traditional FCs while depriving electors in GCs the right to vote in a by-election.</p>
51.	Mr YUEN Chiu-tat	<p>(a) The proposed replacement mechanism which is contrary to BL and deprives the public of their right to vote in a by-election is strongly objected to.</p> <p>(b) The proposed replacement mechanism distorts the will of the public. The low turn-out for the 2010 LegCo by-election does not necessarily mean that the majority of the public agree with the introduction of the proposed mechanism. The Administration should withdraw the Bill as soon as possible.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
52.	Mr LIU Chiu-wa	<p>(a) LegCo Members should not resign halfway at will. The 17% voter turnout rate for the 2010 LegCo by-election reflected the views of the electorate on the so-called "referendum campaign".</p> <p>(b) The proposed replacement mechanism is supported as it is effective in preventing abuse of the existing electoral system.</p>
53.	Hong Kong Youth Development Network [LC Paper No. CB(2)2110/10-11(06)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The 17% voter turnout rate for the 2010 LegCo by-election indicated that the majority of the public did not support the "referendum campaign".</p> <p>(b) The proposed replacement mechanism will not deprive the right of the electorate as by-election is just one of the means to fill any casual vacancy.</p> <p>(c) The proposed replacement mechanism is supported. It is cost-saving and efficient to have the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes instead of holding a by-election.</p>
54.	City Civic Network	<p>(a) Dissatisfaction is expressed against the Administration for not conducting any public consultation on the proposed replacement mechanism.</p> <p>(b) The proposed replacement mechanism is not in line with the spirit of the proportional representation system. It distorts the will of the electorate as the vacant seat left by the resigned Member may be filled by a replacement candidate who has obtained only a few votes and lacks representativeness.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(c) Electors should be given the opportunity to vote in a by-election so that they can exercise their votes according to the prevailing circumstances.
55.	Hong Kong Federation of Students	<p>(a) The voter turnout rate for the 2010 LegCo by-election may indicate that the public did not support the "referendum campaign" but it does not necessarily mean that the majority of the public agree with the introduction of the proposed mechanism.</p> <p>(b) The proposed replacement mechanism is strongly objected to as it deprives the public of their right to vote in a by-election and the free expression of will of the electorate through a "referendum campaign" via the by-election.</p>
56.	Mr Andrew CHIU Member of Taikoo Shing West District Council	<p>(a) The proposed replacement mechanism is strongly objected to as it deprives electors of their right to vote in a by-election.</p> <p>(b) It is unreasonable to fill a vacancy by a candidate who has lost in a previous general election or another candidate of a different political affiliation.</p>
57.	The Professional Commons [LC Paper No. CB(2)2442/10-11(16)]	<p>(a) The proposed replacement mechanism is objected to as it is not in line with the spirit of the proportional representation system and deprives electors of their right to vote in a by-election.</p> <p>(b) Electors should be given the opportunity to vote in a by-election when a vacancy arises mid-term so that they can exercise their votes according to the prevailing circumstances.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
58.	Mr TUNG Wai-ming [LC Paper No. CB(2)2442/10-11(17)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and lacked the support of the community.</p> <p>(b) The proposed replacement mechanism is supported.</p>
59.	Community Development Initiative	<p>(a) Dissatisfaction is expressed against the Administration for not consulting the public on the proposed replacement mechanism on the ground that the 2010 by-election had a low turn-out.</p> <p>(b) The Administration should review whether the proposed replacement mechanism is in compliance with Article 25(a) and 25(c) of ICCPR.</p> <p>(c) The filling of vacancies by reference to votes cast in the previous general election cannot give effect to the free will of the electorate as their preference for candidates may be different due to changes in political and social circumstances.</p>
60.	Mr YAM Wing-keung 高官心肺功能絕頂關注組	<p>(a) A strong view was expressed against the proposed replacement mechanism stressing that people who did not vote in the 2010 by-election are not necessarily opposed to the "referendum campaign".</p>
61.	Mr NGAI Cheung-mong	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money.</p> <p>(b) There should be a mechanism to prevent LegCo Members from resigning at will to trigger a by-election.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
62.	Mr WONG Ngai-ming	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The move went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community. The low voter turnout rate for the 2010 LegCo by-election indicated that the public did not support the "referendum campaign".</p> <p>(b) The Administration should enact the Bill as soon as possible to plug the loophole in the existing replacement system.</p>
63.	Mr CHONG Kwok-keung	<p>(a) The proposed replacement mechanism is supported.</p>
64.	Mr Mak Kwok-fung, Michael Member of Wan Chai District Council [LC Paper No. CB(2)2442/10-11(18)]	<p>(a) Dissatisfaction was expressed against the Administration for not conducting any public consultation on the proposed replacement mechanism. It is considered that the proposed mechanism is contrary to Article 26 of BL and deprives the public of their right to stand for and to vote in a by-election.</p> <p>(b) The Administration should withdraw the Bill.</p>
65.	香港長樂聯誼會 [LC Paper No. CB(2)2442/10-11(19)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The low voter turnout rate for the 2010 LegCo by-election indicated that the community did not support the "referendum campaign".</p> <p>(b) The proposed replacement mechanism is supported. The proposed mechanism is in line with the spirit of the proportional representation system which has been adopted in LegCo elections for GCs for years.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		<p>(c) Both large and small political parties can stand a chance of gaining seats under the proposed mechanism of having the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes. The arrangement can prevent a Member from handing over his seat to a successor of the same affiliation.</p>
66.	Ms YUEH Hiu-fong, Abbie	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The move went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community.</p> <p>(b) The proposed replacement mechanism is supported which is in line with the spirit of the proportional representation system. Small political parties can stand a chance of gaining seats under the proposed arrangement of having the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes.</p>
67.	Mr CHEUNG Wing-leung	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The low voter turnout rate for the 2010 LegCo by-election indicated that the public did not support the "referendum campaign".</p> <p>(b) The proposed replacement mechanism is fair as both the large and small political parties can stand a chance of gaining seats under the proposed arrangement of having the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
68.	Mr NG Chi-pui, Eric	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money as well as an abuse of the existing electoral system.</p> <p>(b) The proposed replacement mechanism for filling a vacancy arises mid-term in LegCo based on the election result of the preceding general election instead of holding a by-election can reflect the overall will of the electorate and ensure the prudent use of public funds.</p>
69.	Frontier	<p>(a) The proposed replacement mechanism is strongly objected to. The public should have a right to express their will via a by-election.</p>
70.	Mr AU Wai-kong	<p>(a) The proposed replacement mechanism is strongly objected to. The arrangement of having the first candidate who has not yet been elected on the list with the largest number of remainder votes to fill the vacancy distorts the will of the electorate as the replacement candidate may be of a different political affiliation.</p> <p>(b) It is unreasonable to have the vacant seat left by the resigned Member filled by a replacement candidate who has obtained only a few votes and lacks representativeness.</p>
71.	Mr LEUNG Kai-sing [LC Paper No. CB(2)2110/10-11(10)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The low voter turnout rate for the 2010 LegCo by-election indicated that the public did not support the "referendum campaign".</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(b) The proposed replacement mechanism is supported. It is fair to have the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes.
72.	Abolish Functional Constituency	(a) Strong dissatisfaction is expressed against the proposed replacement mechanism as it distorts the will of the electorate.
73.	Mr LEE Wai-fung [LC Paper No. CB(2)2110/10-11(11)]	(a) The existing electoral system under which a by-election will be conducted to fill a vacancy arises mid-term in LegCo can express and give effect to the free will of the electors. The proposed replacement mechanism will be subjected to judicial review as it deprives the public of their right to vote in a by-election. (b) Reservation is expressed as the scope of the proposed replacement mechanism is too wide covering all situations including the situation whereby Members are unable to discharge their duties due to serious illness.
74.	Miss LEE Wai-yee	(a) Strong dissatisfaction is expressed at the Administration's plan to introduce the proposed replacement mechanism. The proposed arrangement may give rise to political disputes, assassination in an extreme case, as a candidate on the precedence list may try every mean to force an incumbent Member to step down from his office in order to replace that Member.
75.	Mr CHEUNG yiu-pan	(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. (b) The proposed replacement mechanism can prevent LegCo Members from resigning at will and is supported.

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
76.	LINS	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and resources.</p> <p>(b) The proposed replacement mechanism is supported in order to plug the loophole in the existing replacement system.</p>
77.	Mr Kwok Pui-kit	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community.</p> <p>(b) The proposed replacement mechanism is supported.</p>
78.	復旦大學同學會	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and resources.</p> <p>(b) The proposed replacement mechanism is supported in order to plug the loophole in the existing replacement system.</p>
79.	香港新馬泰歸僑華人聯合會 [LC Paper No. CB(2)2442/10-11(20)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and resources. The move went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		<p>(b) LegCo Members should be required to give justifications for their resignation and these Members should be restricted from standing in any by-elections during the remaining term.</p> <p>(c) The proposed replacement mechanism is supported.</p>
80.	Mr SONG Sio-chong	(a) Whether to conduct a by-election or to adopt the proposed replacement mechanism should depend on different situations. While a replacement mechanism is widely adopted in overseas countries where the proportional representation system is practiced, it is not appropriate to apply a replacement mechanism to an election where the first-past-the-post voting system is adopted.
81.	Hong Kong Foshan Trader Association Ltd.	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money.</p> <p>(b) The proposed replacement mechanism is supported in principle but reservation is expressed that a Member can hand over his seat to a successor of the same affiliation. A member suffers from serious illness may also be forced to serve on the Council in order to prevent his seat from being taken up by another candidate of a different political affiliation under the proposed arrangement.</p>
82.	Federation of Hong Kong Kowloon New Territories Hawker Associations [LC Paper No. CB(2)2442/10-11(22)]	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and resources.</p> <p>(b) The proposed replacement mechanism is supported.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
83.	Mr PANG Chi-sang	(a) Dissatisfaction is expressed at the resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election which was a waste of public money and resources.
84.	Ms CHAN Po-ying 民間 1 人 1 票 踢 走 功 能 組 別 運 動 [LC Paper No. CB(2)2442/10-11(23)]	(a) The "referendum campaign" provided an opportunity for the public to express their will. (b) Strong dissatisfaction is expressed against the Administration for not conducting any public consultation on the proposed replacement mechanism which deprives the public of their right to vote in a by-election.
85.	Mr YUEN Man-ho 繞民意立惡法無恥反對會	(a) Dissatisfaction is expressed that the proposed arrangement of having the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes is unfavorable to small political parties. The arrangement is at variance with the proportional representation system commonly adopted in overseas countries where the vacancy will be filled by a candidate on the same list as the resigned Member. (b) Dissatisfaction is expressed that the Administration creates unfairness by not applying the proposed replacement mechanism to traditional FCs while depriving electors in GCs the right to vote in a by-election.
86.	The General Association of Xiamen (H.K.) Ltd. [LC Paper No. CB(2)2442/10-11(24)]	(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money. The move went against the expectation of the public that LegCo Members would complete their four-year term of office to serve the community.

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		<p>(b) The proposed replacement mechanism is supported. Both large and small political parties can stand a chance of gaining seats under the proposed arrangement of having the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes. The first-past-the-post voting system adopted in a by-election is unfavorable to small political parties.</p> <p>(c) The Administration should enact the Bill as soon as possible to plug the loophole in the existing replacement system.</p>
87.	Mr YIM Tat-ming 填補機制脫離民意團	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the "referendum campaign" via the by-election was not a waste of public money.</p> <p>(b) Strong dissatisfaction is expressed against the Administration for not conducting any public consultation on the proposed replacement mechanism before introducing the Bill.</p>
88.	Hong Kong Hopeless	<p>(a) Strong dissatisfaction is expressed at the Administration's introduction of the proposed replacement mechanism which is contrary to Article 68 of BL.</p>
89.	Mr CHENG Wing	<p>(a) The resignation of the five LegCo Members in January 2010 for the purpose of initiating the so-called "referendum campaign" via the by-election was a waste of public money and affected the operation of LegCo.</p> <p>(b) It is cost-saving and efficient to have the vacancy arises mid-term in LegCo filled by the first candidate who has not yet been elected on the list with the largest number of remainder votes instead of holding a by-election.</p>

No.	Deputation/individual [LC Paper No. of submission]	Views and suggestions
		(c) The proposed replacement mechanism should not cover situations where a vacancy arises mid-term in LegCo due to the following reasons: death of a Member, when a Member loses the ability to discharge his duties as a result of serious illness and when a Member is convicted for a criminal offence. A by-election should be conducted to fill the vacancy in such situations.

Council Business Division 2
Legislative Council Secretariat
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