

Legislative Council Panel on Constitutional Affairs

**Review on the Subsidy Rate of the
Financial Assistance for Candidates and
the Election Expenses limit
for the 2011 District Council Election**

PURPOSE

This paper seeks Members' view on the following proposals on the subsidy rate of the financial assistance for candidates and election expenses limit for the fourth-term District Councils (DC) election to be held in November 2011-

- (a) the subsidy rate of the financial assistance scheme for candidates of DC election should be increased from \$10 per vote to \$12 per vote; and
- (b) the election expenses limit for DC election should be increased from \$48,000 to \$53,000.

BACKGROUND

(A) Financial Assistance Scheme

Current Subsidy Rate

2. Financial assistance for election candidates was first introduced in the 2004 Legislative Council (LegCo) election with the aim of encouraging more public-spirited candidates to participate in the LegCo elections and of cultivating an environment to facilitate the development of political talent in Hong Kong. Subsequently, there were calls by political parties and groups to extend the scheme to candidates of DC elections. After considering the views received from the LegCo Panel on Constitutional Affairs and the public consultation exercise on the Review on the Role, Functions, and Composition of DCs held in 2006, we proposed to extend the scheme to candidates of DC elections. The proposal was then effected by the District Councils

(Amendment) Bill 2006. The third DC ordinary election held on 18 November 2007 was the first DC election with financial assistance available to candidates. The subsidy rate was set at \$10 per vote, capped at 50% of the declared election expenses of the candidates.

3. Under the current scheme, candidates who were elected or who received 5% of valid votes or more are eligible for financial assistance. For the 2007 DC election, the Registration and Electoral Office (REO) received 844 applications for financial assistance from the candidates¹. The total amount of subsidy was around \$9.5 million.

4. The subsidy rate for LegCo candidates was increased from \$10 to \$11 for the 2008 LegCo election held in September 2008. Recently, the Administration has proposed in the Legislative Council (Amendment) Bill 2010 to increase the subsidy rate to \$12 in view of the forecast cumulative inflation rate of 9.1% between 2009 and 2012. The Bills Committee has completed its scrutiny of the Bill.

Proposal

5. The current subsidy rate of \$10 per vote was first adopted in the financial assistance scheme for the 2007 DC election. Between 2008 and 2011, the Composite Consumer Price Index (CCPI) is expected to have increased by 11% on a cumulative basis². The subsidy rate should be increased to \$11 if adjusted in accordance with the inflation figure. However, as a result of the amendments to the electoral methods for the CE and LegCo elections, the participation by elected DC members in these constitutional level elections will be enhanced. We propose to increase the subsidy rate further to \$12 per vote for the 2011 DC election, which will tally with the proposed subsidy rate for candidates of the 2012 LegCo election.

(B) Election Expenses Limit

Current Limit

6. Under the Elections (Corrupt and Illegal Conduct) Ordinance

¹ There were 861 candidates qualified for application but 17 of them did not make an application.

² According to the CCPI, the inflation rate of 2008, 2009 and 2010 was 4.3%, 0.5% and 2.4% respectively. The forecast trend inflation rate for 2011 was 3% according to the medium term projections in the 2010-11 Budget Speech.

(Cap. 554) (ECICO), “election expenses” means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of the candidate for the purpose of promoting the election of the candidate or prejudicing the election of another candidate, and includes the value of election donations consisting of goods and services used for that purpose. Under section 45 of the ECICO, the Chief Executive in Council may, by regulation, prescribe the maximum amount of election expenses that can be incurred. At present, the Maximum Amount of Election Expenses (District Council) Regulation stipulates that a candidate standing for DC election may incur election expenses of no more than \$48,000.

7. The setting of election expenses limit is to allow candidates to compete on a level playing field in an election. The limit does not restrict the way in which a candidate runs his campaign. Candidates are free to spend as much or as little as they wish, provided that their election expenses stay within the prescribed limit.

8. The election expenses limit is reviewed prior to every DC ordinary election. In setting the election expenses limit, our principle has always been that the limit must not be so low as to place unreasonable restriction on electioneering activities, or so high as to deter less well-off candidates from standing for election. The limit was last adjusted from \$45,000 to \$48,000 for the ordinary election held on 18 November 2007.

Declared Amount of Election Expenses Incurred by Candidates in Recent Elections

9. We have considered the matter with reference to the declared election expenses of candidates in recent elections. Our findings in respect of the 2007 DC election³ are as follows –

- (a) the median amount of election expenses incurred by the contested candidates was \$31,946 (i.e. 67% of the election expenses limit);

³ In the analysis set out in paragraph 9 above, we have only taken into account the declared election expenses of candidates in the contested constituencies because the election expenses limit is derived on the assumption that the election is a contested one. If we take into account the declared election expenses of all candidates in the 2007 DC election (i.e. including the candidates who were returned from uncontested constituencies), the median amount of election expenses incurred by the candidates was \$31,561. 81% of the candidates spent less than 80% of the election expenses limit, while 14% of the candidates spent between 81% and 90% of the election expenses limit.

- (b) 80% of the candidates spent less than 80% (i.e. \$38,400) of the election expenses limit;
- (c) 14% of the candidates spent between 81% and 90% of the election expenses limit; and
- (d) 6% of the candidates spent more than 90% (i.e. \$43,200) of the election expenses limit.

10. In the six DC by-elections held since then, our findings are –

- (a) the median amount of election expenses incurred by candidates was \$33,112 (i.e. 69% of the election expenses limit);
- (b) 62% of the candidates spent less than 80% of the election expenses limit;
- (c) 9% of the candidates spent between 81% and 90% of the election expenses limit; and
- (d) 29% of the candidates spent more than 90% of the election expenses limit.

11. In interpreting the statistics in paragraphs 9 and 10, it is necessary to bear in mind that candidates must comply with the law and would not attempt to spend beyond the prescribed limit, which is a criminal offence under the ECICO.

Proposal

12. Between 2008 and 2011, the CCPI is expected to have risen by 11% on a cumulative basis. Having regard to the findings set out in paragraphs 9 to 10 above and the forecast cumulative inflation, we propose to increase the limit to \$53,000 (a 10% increase rounded up to the nearest thousand). In fact, about 20% of the candidates in the 2007 DC election and 38% of those in the six recent DC by-elections spent more than 80% of the election expenses limit in their electioneering activities. This fact lends support to a modest increase in the election expenses limit.

13. The increase in election expenses limit would also allow more room for candidates to promote their candidacy in the 2011 DC election, in which competition is expected to be intensified as a result of the opportunity of becoming LegCo Members via the new DC Functional Constituency.

IMPLICATIONS OF THE PROPOSAL

14. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no economic, civil service, productivity, environmental or sustainability implications.

15. The proposal of increasing the DC election expenses limit by 10% will likely increase the total amount of financial assistance payable to DC election candidates, which is now proposed to be paid at a rate of \$12 per vote capped at 50% of the declared election expenses of the candidates. Given that the effects of these two proposals are linked, and the financial assistance payable will depend on a number of factors, such as the number of candidates, votes obtained by each candidate, declared election expenses of candidates, etc., we cannot assess accurately the financial implications of the proposals at this stage. Any additional resources implications arising from the proposals will be sought through the established funding mechanism where necessary.

WAY FORWARD

16. Members are invited to note and comment on the proposals of increasing the financial assistance rate and election expenses limit for candidates of the 2011 DC election.

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