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Panel on Constitutional Affairs
Background brief prepared by the Legislative Council Secretariat
for the meeting on 21 February 2011

Election expenses limit and financial assistance scheme
for the 2011 District Council election

Purpose

This paper provides background information on the election expenses limit and financial assistance scheme for candidates in District Council ("DC") elections and summarizes the past discussions by Legislative Council ("LegCo") Members on the subjects.

Background

Election expenses limit for DC elections

2. Under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO"), the Chief Executive in Council is empowered to prescribe the maximum amount of election expenses which may be incurred by or on behalf of a candidate running for DC elections. The election expenses limit is reviewed prior to every DC ordinary election.

3. As stipulated in the Maximum Amount of Election Expenses (District Council Election) Regulation made under section 45 of ECICO, the current election expenses that can be incurred in respect of a candidate at a DC election is \$48,000.

Financial assistant scheme for DC elections

4. Financial assistance for election candidates was first introduced in the 2004 LegCo election. The scheme was extended to DC election candidates from the 2007 DC election onwards. According to the Administration, it was an initiative to encourage more candidates to participate in public elections and to facilitate the development of political talents in Hong Kong.

5. Under the District Councils (Amendment) Ordinance 2007 passed by LegCo on 17 January 2007, DC election candidates who are elected or who receive 5% of valid votes or more are eligible for financial assistance. Currently, in respect of a candidate in a contested constituency, the amount payable is the lower of either the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate (i.e. \$10 per vote); or 50% of the declared election expenses of the candidate. In respect of a candidate in an uncontested constituency, the amount payable is the lower of either the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate (i.e. \$10 per vote); or 50% of the declared election expenses of the candidate.

Past discussions on election expenses limit

Setting the election expenses limit

6. The Panel on Constitutional Affairs ("the Panel") discussed issues relating to the election expenses limit for DC elections at its meetings held on 19 April 1999, 20 January 2003, 8 February and 21 June 2007 respectively. The issues were also discussed by the subcommittee formed under the House Committee to study subsidiary legislation relating to DCs election in 1999.

7. In April 1999, the Administration proposed that the election expenses limit for the first DC election in 1999 should be set at \$45,000, the same level for the 1994 District Board election. Members supported the proposal, given that the election expenses incurred by the candidates for the 1994 District Board election were mainly in the range of \$20,000 to \$40,000, and the proposed limit of \$45,000 posed no difficulties for candidates.

8. In January 2003, the Administration proposed that the election expenses limit for the 2003 DC election should be retained at the level of \$45,000, having considered that the majority of candidates (i.e. 86%) at the 1999 DC election spent within the prescribed limit in their election campaigns. Members did not raise objection to the proposal.

9. The Panel was consulted on the Administration's proposal on the election expenses limit for the 2007 DC election in February 2007. The Administration proposed that the election expenses limit could be either maintained at the level of \$45,000 or be adjusted upwards to \$48,000 taking into account the inflation since 1994 when the limit was last revised. While some Members considered that the election expenses limit should remain unchanged as the constituency areas of DCs were small and there was no substantial increase in the costs of

conducting electioneering activities since the 2003 DC election, some other Members considered it appropriate to adjust the election expenses limit upwards to \$48,000 in line with inflation. The Administration subsequently adjusted the limit upwards to \$48,000 which had been adopted since the 2007 DC election.

Basis for calculation of the election expenses limit

10. Some Members asked whether the number of electors in DC constituencies and the geographical coverage of DC constituencies had been taken into account in determining the election expenses limit.

11. The Administration advised that the election expenses limit was not determined on the basis of number of electors. In delineating the constituency boundaries of the DC elections, the population distribution in the districts had also been taken into account and the population differences between constituencies were not as pronounced as those of LegCo elections. The determination of the expenses limit for DC election was based on an estimation of the actual expenditure, such as expenses incurred in the printing of introductory leaflets, publicity banners and travelling, incurred by a candidate with reference to the expenditure items declared by candidates in recent DC elections. For expenditure items the quantities of which might vary with the number of electors in a constituency e.g. handbills, the quantity was worked out on the basis of the most populated constituency. The Administration stressed that the election expenses limit sought to set a ceiling to allow candidates to compete on a level-playing field in an election. Candidates were free to spend as much or as little as they wished, provided that their election expenses stayed within the prescribed limit.

12. The calculation of the estimated election expenses incurred by a DC election candidate provided by the Administration in February 2007 is in **Appendix I** for members' reference.

Past discussions on financial assistant scheme

Subsidy rate of the financial assistance

13. In response to the calls by Members and political parties to extend the financial assistance scheme (which was introduced in the 2004 LegCo election) to DC elections, the Administration proposed to the Panel in 2006 that financial support be provided to candidates in DC elections to help them meet part of their election expenses.

14. Noting that the subsidy rate of the financial assistance payable to each candidate was capped at 50% of the actual election expenses under the Administration's proposal, some Members were of the view that the subsidy rate could be further increased to, for example, 75% of the actual election expenses for DC elections in order to encourage more contestants in the elections.

15. The Administration advised that while the purpose of the scheme was to encourage more political talents to participate in elections, the Administration held the view that candidates should shoulder a portion of the election expenses incurred. In respect of the 2003 DC election, more than 80% of the candidates spent less than \$40,000. As a first step to provide financial assistance to DC election candidates, the Administration considered it reasonable to cap the amount of subsidy rate to 50% of the actual election expenses. The subsidy rate was also comparable to that of similar schemes introduced by other countries.

Calculation of the amount payable

16. Under the original financial assistance scheme for LegCo election candidates, the amount of financial assistance payable to a candidate was \$10 per vote, capped by 50% of the declared election expenses of a candidate, or the difference between the declared election expenses and declared election donations of a candidate, whichever was lower. Some Members were of the view that the amount of election donations received by election candidates should not be taken into account for the purpose of calculating the amount of financial assistance payable so that candidates would not be discouraged from obtaining donations and sponsorship from political parties and other parties.

17. The Administration took on board the views and subsequently excluded election donations from the formula for calculating the amount of financial assistance. Similar changes had also been made to the formula for calculating the amount of financial assistance payable to candidates standing for LegCo elections.

18. In response to a Member's enquiry on whether any unspent or unused donations could be used by successful candidates to cover their future expenses in district work, the Administration explained that if a candidate had received \$50,000 donations and had spent up to the prescribed election expenses limit of \$48,000, he was required to give the unspent or unused donation (\$2,000) to charitable institutions. If a candidate had received \$48,000 donations, used it up during election and had successfully claimed \$24,000 under the financial

assistance scheme, he was allowed to keep the financial assistance of \$24,000 for use in his future district work.

Relevant papers

19. A list of relevant papers and minutes of meetings which are available on the LegCo website is in **Appendix II**.

Council Business Division 2
Legislative Council Secretariat
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Detailed Calculation of the Estimated Election Expenses

	<u>Unit Cost (\$)</u>	<u>Quantity</u>	<u>Amount (\$)</u>
1. Banners	117.7	48	5,650
2. Publicity Boards	31.3	60	1,878
3. Posters	3.9	860	3,354
4. Handbills	0.27	24,716 ¹	6,673
5. Pamphlets	0.42	12,358 ²	5,190
6. Food and Drinks	65.7	50 persons ³	3,285
7. T-shirts and Armbands	40.0	50 ³	2,000
8. Election Meetings	230.5	8 hours	1,844
9. Badges	4.47	50 ³	224
10. Easy-pull Display Stands	170.0	8	1,360
11. Sashes	41.5	50 ³	2,075
12. Pennants	26.3	95	2,499
13. Miscellaneous Expenses	NA	NA	6,000⁴
	Total		42,032

Notes

1. Assuming that each candidate will distribute two handbills to each elector, the estimated quantity of handbills is calculated as follows –
 - (a) Population of the most populated = 25,800 constituency (according to the Electoral Affairs Commission's recommendations on the constituency boundaries of the 2007 District Council elections)

(b) Median registration rate of the 405 constituencies = 47.9%

[registration rate:

Number of registered electors in the constituency

Size of population of the constituency]

(c) Estimated number of registered electors in a constituency = (a) X (b)
= 25,800 X 47.9%
= 12,358

(d) Estimated quantity of handbills: = 12,358 X 2
= 24,716

2. Assuming that each candidate will distribute one pamphlet to each elector, the estimated quantity of pamphlets is calculated as follows:

(a) Estimated number of registered electors in a constituency (please refer to Note 1 above for the detailed calculations) = 12,358

(b) Estimated quantity of pamphlets = 12,358

3. The quantity is estimated based on the assumption that each candidate has about 50 election agents and assistants, and taking into account the election returns in more recent District Council by-elections.

4. The cost is estimated by making reference to the election returns of candidates of recent District Council by-elections.

**Election Expenses Limit and Financial Assistance Scheme
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Relevant documents

Minutes

- (a) minutes of the meeting of the Panel on 19 April 1999
[LC Paper No. CB(2)2308/98-99];
- (b) minutes of the Subcommittee on subsidiary legislation relating to District Councils election on 24 May 1999
[LC Paper No. CB(2)2315/98-99];
- (c) Report of the Subcommittee on subsidiary legislation relating to District Councils election on 28 May 1999
[LC Paper No. CB(2)2122/98-99];
- (d) minutes of the meeting of the Panel on 20 January 2003
[LC Paper No. CB(2)1178/02-03];
- (e) minutes of the meeting of the Panel on 21 April 2006
[LC Paper No. CB(2)2226/05-06];
- (f) minutes of the meeting of the Panel on 8 February 2007
[LC Paper No. CB(2)1368/06-07];
- (g) minutes of the meeting of the Panel on 26 March 2007
[LC Paper No. CB(2)1871/06-07];
- (h) minutes of the meeting of the Panel on 21 June 2007
[LC Paper No. CB(2)161/07-08];

Papers

- (i) Administration's paper entitled "1999 District Council Elections: Election Expense Limit"
[LC Paper No. CB(2)1705/98-99(03)];
- (j) Administration's paper entitled "Electoral Arrangements for the 2003 District Council Elections"
[LC Paper No. CB(2)652/02-03(01)];

- (k) Administration's paper entitled "Financial Assistance Scheme for Candidates in District Council Elections"
[LC Paper No. CB(2)1571/05-06(01)];
- (l) Administration's paper entitled "2007 District Council Elections: Election Expense Limit"
[LC Paper No. CB(2)1024/06-07(02)];
- (m) Administration's paper entitled "Subsidiary Legislation Relating to the 2007 District Council Election: Ballot Papers, Financial Assistance Scheme and Other Aspects"
[LC Paper No. CB(2)1378/06-07(02)]; and
- (n) Administration's paper entitled "Proposed Guidelines issued by the Electoral Affairs Commission on Election-related Activities in respect of the District Council Elections"
[LC Paper No. CB(2)2157/06-07(02)].