

立法會
Legislative Council

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Paper for the House Committee meeting on 10 February 2012

**Further report of the Bills Committee on
Legislative Council (Amendment) Bill 2011**

Purpose

This paper reports on the scrutiny work of the Bills Committee on Legislative Council (Amendment) Bill 2011 ("the Bills Committee") and related development after the submission of its written report to the House Committee which was circulated vide LC Paper No. CB(2)2286/10-11 on 4 July 2011.

Written report to the House Committee

2. At the House Committee meeting on 10 June 2011, members formed a bills committee to study the Legislative Council (Amendment) Bill 2011. Mr TAM Yiu-chung and Mr Jeffrey LAM were elected as Chairman and Deputy Chairman of the Bills Committee respectively. The Bills Committee held a total of seven meetings from 17 June to 4 July 2011.

3. The Chairman of the Bills Committee made a verbal report on its deliberations at the House Committee meeting on 24 June 2011, indicating that subject to the Committee Stage amendments ("CSAs") to be moved by the Administration, it raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 13 July 2011.

4. The Bills Committee held a meeting on 4 July 2011 to receive a briefing from the Administration on its proposed revised replacement mechanism by CSAs. Under the proposed revised replacement mechanism, any vacancy in the membership of the Legislative Council ("LegCo") for any geographical constituency ("GC") and District Council ("DC") (second) functional constituency ("FC") would first be filled by the first candidate who has not been elected on the same list as that of the resigning Member. If that candidate is ineligible or unwilling to fill the seat, the vacancy would be filled by the next candidate on the same list, and so on. When there is no more candidate on the same list who is eligible and willing to fill the vacancy, the vacancy would be

filled by reference to the precedence list, i.e. the list of the first candidates who have not been elected on each of the lists with remaining votes at the previous general election, ranked in descending order according to the number of remaining votes of their respective lists. Finally, if the vacancy cannot be filled by the above methods, a by-election would be held.

5. While some members expressed support for the revised replacement mechanism, some other members expressed the views that (a) the resigning Member should be restricted from participating in any by-election in the entire remainder of the term; (b) the vacancy concerned should be filled by a candidate on the same list as that of the resigning Member and if the vacancy could not be filled by candidate(s) from the same list, a by-election should be held; and (c) the proposed replacement mechanism should not apply to causal vacancies arising from death, serious illness or other involuntary circumstances. There was a call on the Administration to provide more time to consider members' views and make use of the summer recess to conduct a public consultation exercise on relevant issues. The written report of the Bills Committee was circulated to the House Committee on 4 July 2011.

Subsequent development

6. The Administration wrote to the Clerk to LegCo in the afternoon of 4 July 2011 advising that in response to the views of the Bills Committee that the Administration should provide more time to consider members' suggestions and listen to the views of the public, the Administration had decided not to resume the Second Reading debate on the Bill at the Council meeting of 13 July 2011 and withdrew the notice given accordingly.

7. The Bills Committee held a further meeting on 22 July 2011 to receive a briefing by the Administration on a Consultation Paper on Arrangements for Filling Vacancies in the Legislative Council which was released on the same day for public consultation until 24 September 2011.

8. On 20 January 2012, the Administration published the Consultation Report on Arrangements for Filling Vacancies in the Legislative Council. It is the Administration's latest proposal that -

- (a) a vacancy arising mid-term in a GC, the DC (second) FC or any other FC under section 15 or section 72 of the Legislative Council Ordinance (Cap. 542) ("LCO") or Article 79 of the Basic Law would continue to be filled by a by-election;

- (b) a Member returned by a GC, the DC (second) FC or other FCs who has voluntarily resigned from office under section 13 or section 14 of LCO would be prohibited from standing in any by-elections in all GCs, the DC (second) FC and other FCs in the same LegCo term within six months of his resignation; and
- (c) the restriction would not apply to general elections. If the six-month prohibition spans over a current term and the following term of LegCo, the prohibition will not be applicable to the by-elections in the following term of LegCo.

9. The Administration briefed the Panel on Constitutional Affairs on the Consultation Report and its latest proposal at the special Panel meeting on 31 January 2012. Members of the Bills Committee were invited to attend the special meeting. Members have noted the Administration's plan to introduce a new bill to implement the latest proposal.

10. On 1 February 2012, the Secretary for Constitutional and Mainland Affairs wrote to the Chairman of the Bills Committee confirming that a new bill would be introduced, and that the Bill would not be further pursued and would be withdrawn. The Bills Committee held a meeting on 3 February 2012 to discuss its scrutiny work. The Bills Committee has agreed that in view of the Administration's decision to withdraw the Bill, there would be no need for the Bills Committee to continue its work and the Bills Committee should report to the House Committee accordingly.

Conclusion

11. The Bills Committee agrees that in view of the Administration's decision to withdraw the Bill, there would be no need for it to continue its work.

Advice sought

12. Members are invited to note the deliberations of the Bills Committee.