

**立法會**  
**Legislative Council**

LC Paper No. CB(2)47/15-16(01)

Ref : CB2/PL/CA

**Panel on Constitutional Affairs**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 19 October 2015**

**Review on the subsidy rate of the financial assistance for candidates and  
the election expenses limits for the 2016 Legislative Council Election**

**Purpose**

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

**Background**

EEL for LegCo elections

2. Under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the Chief Executive in Council is empowered to prescribe the maximum amount of election expenses which may be incurred in respect of a candidate or a list of candidates running for LegCo elections.

3. In respect of the LegCo election, the current EELs for the geographical constituency ("GC") and functional constituency ("FC") as stipulated in the Maximum Amount of Election Expenses (LegCo Election) Regulation (Cap. 554D) are as follows –

<u>GC</u>	<u>EELs</u>
Hong Kong Island	\$2,100,000
Kowloon East	\$1,575,000
Kowloon West	\$1,575,000
New Territories East	\$2,625,000
New Territories West	\$2,625,000

<u>FC</u>	<u>EELs</u>
Heung Yee Kuk (HYK"), agriculture and fisheries, insurance and transport FCs	\$105,000
FCs with not more than 5 000 registered electors	\$168,000
FCs with 5 001 to 10 000 registered electors	\$336,000
FCs with over 10 000 registered electors	\$504,000

4. With the creation of five new District Council ("DC") FC seats in the 2012 LegCo election, the LegCo (Amendment) Ordinance 2011 has provided that the maximum amount of election expenses that can be incurred at a DC (second) FC election by or on behalf of all the candidates on a list is \$6 million.

#### Financial assistance scheme for LegCo elections

5. Financial assistance for election candidates was first introduced in the 2004 LegCo election. 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.

6. Under the financial assistance scheme for LegCo elections, candidates or lists of candidates who get elected or who have received 5% of valid votes or more and are not disqualified will be eligible for financial assistance. In respect of a candidate or a list of candidates in a contested GC or FC, the amount payable is the lowest of the following: -

- (a) the amount obtained by multiplying the total number of valid votes cast for the candidate or list of candidates by the specified rate (now at \$12 per vote);
- (b) 50% of the maximum amount of election expenses that may be incurred by or on behalf of the candidate or list of candidates; or
- (c) the declared election expenses of the candidate or list of candidates.

In respect of a candidate or a list of candidates in an uncontested GC or FC, the amount payable is the lowest of the following: -

- (a) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate (now at \$12 per registered elector);

- (b) 50% of the maximum amount of election expenses that may be incurred by or on behalf of the candidate or list of candidates; or
- (c) the declared election expenses of the candidate or list of candidates.

## **Past discussions on EELs**

### Setting EELs

7. When the list system of voting was first adopted in the 1998 LegCo election, the Administration proposed that EELs for GCs should be set as below –

<u>GC</u>	<u>EELs</u>
Hong Kong Island	\$2,000,000
Kowloon East	\$1,500,000
Kowloon West	\$1,500,000
New Territories East	\$2,500,000
New Territories West	\$2,500,000

The Administration also proposed to adopt a four-tier structure of EELs which were set by reference to the number of registered electors for FC elections in 1998. The four tiers of EELs for the LegCo FC elections in 1998 are as below –

<u>FC</u>	<u>EELs</u>
HYK, agriculture and fisheries, insurance and transport FCs	\$100,000
FCs with not more than 5 000 registered electors	\$160,000
FCs with 5 001 to 10 000 registered electors	\$320,000
FCs with over 10 000 registered electors	\$480,000

8. In December 1999, the Administration proposed to the Panel on Constitutional Affairs ("the Panel") that taking into account the unchanged geographical size and the slight increase in population, the same EEL for each of the constituencies as in the 1998 GC elections be adopted for the 2000

elections. The Administration also considered that there was no need to adjust EELs for the 2000 LegCo FC elections, and that the same four-tier EELs in 1998 should be used for all FCs, including the new catering and DC FCs.

9. While some members had no strong objection to the Administration's proposal, some other members considered that EELs for GC elections should be reduced having regard to deflation at that time and the fact that candidates of the previous election had spent less than the prescribed limit. The Administration, however, held the view that the limit should not be set at a level that would restrict the way in which a candidate ran his campaign. Given that each GC had over one million population, the Administration considered that the proposed EEL which was equivalent to about \$1.50 per head was reasonable.

10. In December 2003, the Panel was consulted on the Administration's proposals on EELs for the 2004 LegCo election. The Administration proposed that the same four-tier EELs used in the 2000 FC elections should continue to apply to the 2004 FC elections. As for the GC elections, the Administration put forward three options, namely, calculating EELs on the basis of \$1.5 per head of the population, taking account of the deflationary effect in calculating the EELs, and maintaining the same EELs.

11. Members had diverse views over the various options. While some members considered that more flexibility should be allowed for candidates to conduct election activities, some other members stressed that candidates should be allowed to compete on a more equitable basis. The Administration subsequently decided that EELs in 2000 should apply to the 2004 LegCo GC elections.

12. The Panel was consulted on the Administration's proposals on EELs for the 2008 LegCo election at its meeting on 18 February 2008. The Administration proposed that the four-tier EELs used in the 2004 FC elections should continue to apply in the 2008 LegCo FC elections. As regards the GC elections, one option put forward by the Administration was to adjust the EELs with regard to the population change in each GC. EELs of the New Territories West and New Territories East GCs would be increased by 20% and 15%, to \$3,000,000 and \$2,875,000 respectively. The other option was to adopt the same EELs in the 2004 LegCo election for the 2008 LegCo election. While some members supported the option of adjusting upward the EELs, some other members considered that the limits should be adjusted downward so as to ensure a level playing field for candidates who were less resourceful. There was also another view that EELs should remain unchanged.

13. In April 2008, the Administration consulted the Panel again on its proposals on EELs for the 2008 LegCo election. Based on the proposal that the subsidy rate for the financial assistance scheme would be increased by 10%, the Administration proposed that EELs should also be increased as the two elements were related. According to the Administration, given that the population had only increased by 6.9% since 1998 when EELs were set, it was proposed that the EELs for GC and FC elections should be increased by 5% (as set out in paragraph 3 above).

14. The Administration consulted the Panel on EEL proposals for the 2012 LegCo election at its meetings on 19 July and 30 October 2010. The Administration advised that following a review of the election expenditure pattern of the lists of candidates standing for the GC election and candidates standing for the FC election in 2008, the Administration considered that there was no pressing need to increase EELs for the 2012 LegCo election. Members in general expressed no strong view on the Administration's proposal of maintaining the same EELs. No adjustment was made to EELs for GC and FC elections in 2012.

#### EEL for DC (second) FC

15. Some members were of the view that the maximum amount of election expenses for the DC (second) FC which was proposed by the Administration to be set at \$6 million was too high. They expressed strong dissatisfaction that it would create unfairness in the participation of election as only well-off candidates could afford to stand for the election. These members urged the Administration to provide more assistance to candidates to facilitate their arrangements in publicity work for the election in order to alleviate their financial burden.

16. Some other members expressed the view that the Administration should set a higher limit for the maximum election expenses for the DC (second) FC or remove any cap on the amount so that independent candidates from the business sector and professional sectors would be encouraged to participate in the election even though they lacked the manpower support from political parties.

17. The Administration advised that it had considered the proposals put forward by various political parties ranging from \$4 million to \$8 million. The Administration maintained the view that EEL for the DC (second) FC should not be set at a high level so that candidates from large or small political parties and independent candidates could participate in the election. It was considered appropriate to set the maximum amount of election expense for the new DC FC at \$6 million. The election expenses could be shared by five

candidates in a list. Independent candidates could also form a list with other parties to join the election so that the cost could be shared out. The Administration cautioned that candidates might be constrained in carrying out their election campaigns if EEL was set at a low level. After having conducted an assessment concerning the EEL of the new DC FC, the Administration estimated that at least \$3 million would be spent on printed election materials for distribution to over three million electors and another \$3 million for the conduct of electioneering activities. The Administration also advised that to reduce candidates' financial burden, the Registration and Electoral Office would continue to produce a booklet to introduce candidates to voters in the 2012 LegCo election and provide one round of free postage service to candidates.

## **Past discussions on financial assistance scheme**

### Subsidy rate of the financial assistance

18. When the financial assistance scheme was first introduced to LegCo elections in 2004, the subsidy rate was set at \$10 per vote, which was 50% of the average election expense amount that a list of candidates could spend on each vote received in the 2000 LegCo GC elections (derived by dividing the average EELs of the five GCs by the number of votes cast for the most popular lists of candidates in that election).

19. In 2008, when the Panel discussed the Administration's proposals on the rate of financial assistance in respect of a list of candidates/a candidate standing for the 2008 LegCo Election, members generally supported an increase in financial assistance, but some members considered that the proposed subsidy rate at \$11 inadequate. Some members suggested that the ceiling of the financial assistance, which was 50% of the actual election expenses incurred by the candidates, should be raised to, say, 70%, or alternatively a ceiling of, say, \$1 million for the amount of financial assistance payable to each candidate should be imposed. The Administration explained that the subsidy rate of \$10 per vote was first adopted in the financial assistance scheme for the 2004 LegCo election. The subsidy rate was proposed to increase by 10% to \$11 per vote to reflect inflation since 2004.

20. In 2010, the Panel discussed the rate of financial assistance for the 2012 LegCo election. Some members were of the view that the financial assistance for the 2012 LegCo election should be increased from \$11 to at least \$20 per vote and that the cap on the financial assistance payable should be adjusted from 50% to 70%-80% of the declared election expenses. The Administration stressed that it had been the long-standing practice that candidates would need

to meet half of their election expenses. The existing mechanism was considered reasonable and had been functioning well. Taking into account the inflation factor, the Administration proposed to raise the subsidy rate from \$11 to \$12 per vote for the 2012 LegCo election.

#### Calculation of the amount payable

21. When the financial assistance scheme was first introduced to LegCo elections in 2004, under the scheme, financial support would be given to a candidate who got elected, or those who had received 5% of valid votes or more. The rate was set at \$10 per vote but capped at 50% of the actual election expenses of the candidate concerned.

22. During the deliberations of the Bills Committee on Chief Executive Election (Amendment) Bill 2010 and LegCo (Amendment) Bill 2010 ("the Bills Committee"), there were suggestions to raise the subsidy rate of the financial assistance from the existing provision (i.e. \$12 per vote but capped at 50% of the declared election expenses) to \$15 per vote but capped at 70-80% of the declared election expenses. The Administration advised that the design of the scheme had taken into consideration that the provision of financial assistance should be based on the number of valid votes obtained by lists of candidates/candidates and that financial assistance should not exceed 50% of declared election expenses of lists of candidates/candidates. In line with this policy, some lists of candidates/candidates did not receive full payment amounting to 50% of the declared election expenses in view of the smaller number of valid votes they received.

23. Having regard to the views expressed by members, the Administration agreed to enhance the financial assistance scheme for the 2012 LegCo Election. The LegCo (Amendment) Ordinance 2011 provided that the subsidy rate of financial assistance for an eligible candidate or list of candidates be revised to the lowest of (i) \$12 per vote times the number of valid votes received by the candidate or the list of candidates; (ii) 50% of EELs for GC/FC elections; or (iii) the amount of the declared election expenses of the candidate or list of candidates. According to the Administration, the new formula was fair as it reflected the level of support a list of candidates/a candidate received from the public and would provide more room for candidates to obtain financial assistance.

#### Other forms of assistance to candidates

24. During the deliberations of the Bills Committee, members in general were of the view that the Administration should introduce measures to facilitate

candidates to adopt more environmental-friendly means to distribute their election-related materials. Having regard to members' views, the Panel was consulted in April 2011 on a new arrangement for candidates to post joint promotional letters using the free-of-postage facility arrangement. This new measure was introduced by enactment of the Electoral Legislation (Miscellaneous Amendments) Ordinance 2011, which provides that candidates/lists of candidates of different constituencies and candidates of FC or Election Committee ("EC") subsectors with multiple seats are allowed to send their promotional letters to the same elector/voter free of postage. The arrangements will only apply to a list of candidates in a GC and a list of candidates in the DC (second) FC; candidates in the Labour FC which has three seats; and candidates standing for election in the same EC subsector, which has multiple number of seats (ranging from 16 seats to 60 seats).

### **Latest development**

25. The Administration has proposed to consult the Panel on its proposals on the subsidy rate of the financial assistance for candidates and EEL for the 2016 LegCo election at the next meeting on 19 October 2015.

### **Relevant papers**

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



**Relevant papers on review on the subsidy rate of the  
financial assistance for candidates and the election expenses limits for the  
2016 Legislative Council Election**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Constitutional Affairs ("CA Panel")	25.11.1997 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	20.12.1999 (Item VII)	<a href="#">Agenda</a> <a href="#">Minutes</a>
House Committee	18.2.2000	<a href="#">Fourth report of the Subcommittee on subsidiary legislation relating to 2000 Legislative Council election</a>
CA Panel	20.1.2003 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	15.12.2003 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	18.2.2008 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	21.4.2008 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	19.7.2010 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	30.10.2010 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	2.3.2011	<a href="#">Report of the Bills Committee on Chief Executive Election (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010</a>
	6.7.2011	<a href="#">Report of the Bills Committee Electoral Legislation (Miscellaneous Amendments) Bill 2011</a>