Legislative Council
Panel on Constitutional Affairs

Review on the subsidy rate of the financial assistance for candidates and the election expenses limit for the 2019 District Council Ordinary Election

PURPOSE

The Government proposes that, starting from the District Council ("DC") Ordinary Election to be held in late 2019, the subsidy rate of the financial assistance for candidates of DC elections and the election expenses limit ("EEL") for DC elections be adjusted on the basis of the estimated cumulative changes in the Composite Consumer Price Index ("CCPI") from 2016 to 2019. This paper seeks Members' views on the above proposals.

JUSTIFICATIONS

Financial Assistance Scheme

2. Financial assistance for election candidates was first introduced in 2004 to Legislative Council ("LegCo") elections, with the aim of encouraging more public-spirited candidates to participate in LegCo elections and cultivating an environment to facilitate the development of political talent in Hong Kong. In 2007, the financial assistance scheme was extended to DC elections.

3. Under the current scheme, a candidate who was elected or who received 5% of valid votes or more in a DC election is eligible for financial assistance, which would be the lowest of the following amounts –

(a) the amount obtained by multiplying the subsidy rate (currently $14) by the total number of valid votes cast for the candidate (if the election is contested) or 50% of the number of registered electors for the constituency concerned (if the election is uncontested);

(b) 50% of the EEL; and

(c) the declared election expenses of the candidate.

4. For the 2015 DC Ordinary Election, the Registration and Electoral Office ("REO") received 856 eligible claims for financial assistance from the candidates.[1] The total amount of subsidy granted was around $18.7 million.

5. When the financial assistance scheme was introduced in 2007 for DC elections, the subsidy rate was set at $10 per vote, same as the rate for the 2004 LegCo election.[2] The subsidy rate was increased to $12 per vote starting from the 2011 DC Ordinary Election, after taking into account the estimated cumulative inflation rate between 2008 and 2011. Subsequently, taking into account the estimated cumulative inflation rate between 2012 and 2015, the subsidy rate was increased to $14 per vote starting from the 2015 DC Ordinary Election.

6. For the current review, we propose the subsidy rate be adjusted on the basis of the estimated cumulative inflation rate from 2016 to 2019. According to the latest estimate, the CCPI is expected to increase by 9.4% on a cumulative basis[3] from 2016 to 2019, and, as a result, the

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[1] There were 874 candidates eligible for the claim and 856 of them submitted their claims for financial assistance by the statutory deadline (whereas 3 of them only submitted their claims after the statutory deadline and 15 of them did not make a claim).

[2] 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 geographical constituency elections (derived by dividing the average EELs of the five geographical constituencies by the number of votes cast for the most popular lists of candidates in that election). The same subsidy rate was adopted for introduction of the financial assistance scheme in 2007 for DC elections, because the LegCo geographical constituency elections and DC elections are both geographical in nature; the aggregate size of the electorate in both elections is the same; and past experience has shown that the nature and methods of electioneering activities conducted by the candidates in these two elections are similar.

[3] According to the CCPI, the annual inflation rates of 2016 and 2017 are 2.4% and 1.5% respectively. The latest estimate of annual inflation rates of 2018 and 2019 are 2.7% and 2.5% respectively. The cumulative increase in CCPI between 2016

subsidy rate is to be increased from $14 to $15 (rounded off to the nearest dollar). We must point out that the annual inflation rate of 2018 and the latest estimate of annual inflation rate of 2019 are expected to be updated in the first quarter of next year, and we would take the updates into account when we finalise the increase in the subsidy rate.

Election Expenses Limit

7. Under the Elections (Corrupt and Illegal Conduct) Ordinance (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 (i.e., the EEL). At present, the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap. 554C) stipulates that a candidate standing for DC election may incur election expenses of no more than $63,100.

8. The setting of EEL 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/ her campaign. Candidates are free to spend as much or as little as they like, provided that their election expenses stay within the prescribed limit. Spending of election expenses beyond the prescribed limit is an offence under the ECICO.[4]

9. The EEL is reviewed prior to every DC Ordinary Election. In setting the EEL, our principle has always been that the limit must not be

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and 2019 is therefore expected to be 9.4%.

[4] Section 24 of the ECICO stipulates that a candidate engages in illegal conduct at an election if the aggregate amount of election expenses incurred at or in connection with the election by or on behalf of the candidate exceeds the EEL prescribed by law. As set out in section 22 of ECICO, a person who engages in illegal conduct at an election commits an offence and is, if tried summarily, liable on conviction to a fine at level 5 (currently $50,000) and to imprisonment for 1 year; or, if tried on indictment, liable on conviction to a fine of $200,000 and to imprisonment for 3 years.

so low as to place unreasonable restriction on electioneering activities, or so high as to deter less well-off candidates from standing for election. By way of background, the EEL was set at $45,000 for the 1994 District Board elections and remained at that level until it was raised to $48,000 starting from the 2007 DC Ordinary Election, and it was further raised to $53,800 starting from the 2011 DC Ordinary Election, and to $63,100 starting from the 2015 DC Ordinary Election. These three revisions have reflected the cumulative inflation rate of the relevant periods.

10. For the current review, we propose that the EEL be adjusted to take account of the estimated cumulative inflation rate from 2016 to 2019. As set out in paragraph 6 above, the cumulative increase in CCPI from 2016 to 2019 is expected to be 9.4%, and, as a result, the expense limit is to be increased from $63,100 to $69,000 (rounded off to the nearest hundred dollars). The annual inflation rate of 2018 and the latest estimate of annual inflation rate of 2019 are expected to be updated in the first quarter of next year, and we would take the updates into account when we finalise the increase in the expense limit.

11. In considering this proposal, we have also taken into account the declared election expenses of contested candidates in recent elections. For the 2015 DC Ordinary Election, the election expenses data are as follows –

(a) the median amount of election expenses incurred by the contested candidates was about $40,160 (i.e., about 64% of the EEL);

(b) about 84% of the contested candidates spent less than 80% of the EEL (i.e., $50,480);

(c) about 10% of the contested candidates spent 80-90% of the EEL (i.e., $50,480 - $56,790); and

(d) about 6% of the contested candidates spent more than 90% of the EEL (i.e., $56,790).

12. The figures in paragraph 11 represent the declared election expenses of candidates in the contested constituencies only. If we take into account the declared election expenses of the candidates who were returned from uncontested constituencies as well –

(a) the median amount of election expenses incurred by the contested candidates was about $38,830 (i.e., about 62% of the EEL);

(b) about 85% of the contested candidates spent less than 80% of the EEL (i.e., $50,480);

(c) about 9% of the contested candidates spent 80-90% of the EEL (i.e., $50,480 - $56,790); and

(d) about 6% of the contested candidates spent more than 90% of the EEL (i.e., $56,790).

13. For the two DC by-elections[5] held after the 2015 DC Ordinary Election, the election expenses data are as follows –

(a) the median amount of election expenses incurred by candidates was about $48,440 (i.e., about 77% of the EEL);

(b) 62.5% of the candidates spent less than 80% of the EEL;

(c) 25% of the candidates spent 80-90% of the EEL; and

(d) 12.5% of the candidates spent more than 90% of the EEL.

14. Although the statistics in paragraphs 11 to 13 above indicate that the election expenses were below the prevailing EEL, one needs to bear in mind that candidates are required by law not to spend election expenses beyond the prescribed EEL (see footnote 4 above).

FINANCIAL IMPLICATIONS OF THE PROPOSAL

15. The aforementioned proposed increase in the subsidy rate of financial assistance and the EEL will likely increase the total amount of financial assistance payable to DC election candidates. However, we cannot at this point of time assess the financial implications of the proposals with precision because the financial assistance payable will depend on a number of factors, such as the number of candidates, votes

[5] All these by-elections were contested.

obtained by each candidate, declared election expenses of candidates, etc. This notwithstanding, we will ensure that sufficient provisions are included in the draft Estimates of the REO in the relevant financial years.

VIEWS SOUGHT

16. Members are invited to give their views on the proposals of raising the subsidy rate of financial assistance for candidates of DC elections and the EEL for DC elections as mentioned above, starting from the 2019 DC Ordinary Election. The Government will take Members' views into consideration and decide whether and how the adjustments (to be effected through introducing subsidiary legislation to LegCo for negative vetting) should be implemented.

Constitutional and Mainland Affairs Bureau
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