



**Research Director**

Committee of the Legislative Assembly  
Parliament House  
George Street  
Brisbane QLD 4000

Sub. 07

*29 January, 2016*

Director,

**RE: Queensland Greens Submission to the Review of the Parliamentary Committee System (2016)**

Please find attached our submission to the Committee of the Legislative Assembly on parliamentary committees.

If there are any questions or further follow up required, please feel free to contact the Queensland Greens State office.

Yours sincerely,

Neil Cotter  
Queensland Greens Secretary

# Queensland Greens

Review of the parliamentary committee system - Submission

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Prepared - 29 January 2016

## Foreword

The following submission represents the considered position of the Queensland Greens for the purpose of the review of the parliamentary committees system.

The Queensland Greens would like to thank the Committee of the Legislative Assembly for the opportunity to submit on this topic and wish its members well in their deliberations.

## In Response to the Inquiry's Terms

1. That the Committee of the Legislative Assembly inquire into and report to the Legislative Assembly by 25 February 2016 on issues raised in recommendation nine regarding entrenchment and recommendation ten regarding a review of the parliamentary committee system, of the Finance and Administration Committee report "Inquiry into the introduction of four year terms for the Queensland Parliament, including consideration of Constitution (Fixed Term Parliament) Amendment Bill 2015 and Constitution (Fixed Term Parliament) Referendum Bill 2015 (the report)".

The Queensland Greens did make a submission to the Finance and Administration Committee inquiry regarding term lengths and fixed terms in 2015<sup>1</sup>, and were pleased to note the interest members showed in entrenching and strengthening the powers of committees in Recommendation 9:-

### Recommendation 9

The Committee recommends that, should it proceed, the Constitution (Fixed Term Parliament) Amendment Bill 2015 should provide for the voters of Queensland's approval:

- Every Legislative Assembly summoned after the approval of the Bill must establish at least seven portfolio committees the role of which will include the review of Bills (including Appropriation Bills) introduced into the Assembly
- A process for consideration of Budget Estimates must be maintained by the Legislative Assembly.
- Every Bill introduced into the Legislative Assembly must be referred to and reviewed by a committee of the Legislative Assembly, for a period of not less than six weeks, unless
  - a **special majority** of the Assembly agrees to the Bill not being referred to a committee or being referred for a period less than six weeks; or
  - the resolution for the Bill not being referred to a committee is passed without division or dissent.
  - A special majority to be defined as at least 65 per cent of the Members of the Legislative Assembly, including at least one Member of the official opposition. This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

The Greens support the proposed amendments identified in Recommendation 9. We would also

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<sup>1</sup> Queensland Greens,. (2016). *Inquiries into possible changes to Queensland Parliamentary terms*. Brisbane, Australia. Retrieved from <http://www.parliament.qld.gov.au/documents/committees/FAC/2015/I4-Intro4yearterms/submissions/028.pdf>

like the committee to consider extending the cross-party support requirement of the special majority to extend to any opposition or cross bench party who are not in coalition with the government. To clarify, we would like the section to read: -

- A special majority to be defined as at least 65 per cent of the Members of the Legislative Assembly, including at least one Member of the official opposition or at least one member of the cross bench that is not in a formal coalition with the government. This recommendation would also apply to any other Bill(s) with similar intent which are introduced.

We would, however, like to reiterate that entrenching legislative committees cannot compensate for the loss of accountability inherent in fewer elections should the state move to four-year terms.

While the Greens recognise the importance of reviewing legislation, committees cannot amend or reject legislation found to be inadequate in any way, as demonstrated by so many split decisions on committees in the first year of the Palaszczuk government.

The process of review by committees is also undermined when the committee system is dominated by Government members as it was under the Newman Government, where if there was dissent to the legislation would be handled either in cabinet or party room (where there is no public oversight) rather than in committees.

In situations where the government does control numbers on the committees, there is no significant difference between the position of the executive and the committee itself, further entrenching executive power. Fundamentally the committee system can only be successful as a mechanism of review if the parliament from which it is derived accurately and proportionately reflects the electorate. A parliament that accurately reflects the electorate is also much less likely to be dominated by the executive.

It is the executive dominance of parliament rendering it most often merely a rubber stamp that the committee system should be designed to counter, but it is only one element of broader more wide-ranging democratic reform that are required towards that end.

The Queensland Greens do not consider entrenchment to be adequate compensation for the loss of accountability represented by a move to four-year terms or for the lack of electoral and democratic reforms required for a parliament that properly reflects the electorate. However as a stand-alone proposal we support the passing of the changes.

2. That, in undertaking this inquiry, the committee consider how the current parliamentary committee system could be strengthened to increase accountability by:
  - examining the role of parliamentary committees in other jurisdictions with unicameral parliaments, including the functions and powers of those committees and how they are exercised, to see if the functions and powers of Queensland Parliamentary committees can be further strengthened; and
  - reviewing the Parliament of Queensland Act 2001 and Standing and Sessional Orders of the Legislative Assembly pertaining to parliamentary committee functions, powers and procedures to ensure these functions, powers and procedures are operating as effectively as possible as an accountability mechanism.

We researched committee systems from a range of unicameral states, both focusing on technical features and any media or research done into the systems that we could find. A summary table of our investigations is provided in the appendix.

The first notable characteristic of committee systems in general is that most of them were effective at providing significant information to parliamentarians on a range of topics, mostly from subject experts and interested parties.

The key defining factor amongst all committee systems that seemed to separate the groups into “effective oversight” committees and “rubber stamp” committees was the ability of the executive to effectively dominate the committees.

For example, on the investigation of past and current committee systems in New Zealand, McLeay argues that the committee system there was substantially improved by the structural change of parliament from a single-member first-past-the-post system to the current MMP system effectively breaking the link between the executive and committees<sup>2</sup>.

McLeay also notes that while steps forward were being made on committees, such as automatic referral of bills, consolidation of committees and expanded oversight powers, it wasn't until the MMP period that these powers were more broadly used. It was also the time that minority reports were added to the system, as well as the ability of committees to scrutinise treaties and investigate petitions<sup>3</sup>.

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<sup>2</sup> McLeay, E. (2001). Parliamentary Committees in New Zealand: A House Continuously Reforming Itself?. *Australasian Parliamentary Review*, 16(2), 121-139.

<sup>3</sup> *ibid*

This is also the case in the ACT, another unicameral system with a proportional legislative assembly. The ACT does not share the automatic referral or some of the NZ system's broad powers, but due to the nature of the Hare-Clarke proportional election system, many of the committees have been more politically diverse, though this is limited by the rather small number of MPs<sup>4</sup>.

In her 2013 APR article on the ACT committee system, Concannon contrasted the composition and operations of the 5<sup>th</sup> and 6<sup>th</sup> assemblies in ACT, the former being a minority ALP government, and the latter an ALP majority government<sup>5</sup>. The government did move to a majority position on half of the committees in the 6<sup>th</sup> assembly, where the committees were mixed partisan previously.

Concannon argues that while the executive was at least respectful of committees overall, the weakness in the committee system made it harder to apply accountability to the executive, which was not a significant problem when there is a minority government<sup>6</sup>.

The conclusion that committees provide better oversight when they are independent of executive oversight is also supported by a University College of London review of unicameral systems<sup>7</sup>. In investigating the systems of Sweden, Denmark, New Zealand, Queensland, Quebec, British Columbia and Scotland they found that committees were an effective tool for oversight, when complemented with other measures, including proportionally represented parliaments, recall elections, citizen initiated referendum, formal bills of rights, clear distinctions between the legislative and executive branches and minority procedural rights<sup>8</sup>.

In conclusion, while Queensland does have a committee system with some solid features, it is undermined as a mechanism for accountability by inherent flaws in the the makeup of the parliament from which it is derived. There is still in the context however considerable room for improvement that may improve accountability, we will discuss those options as part of item 3 of the terms of inquiry.

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<sup>4</sup> Parliament.act.gov.au,. (2016). *Committees - ACT Legislative Assembly*. Retrieved 27 January 2016, from <http://www.parliament.act.gov.au/learn-about-the-assembly/fact-sheets/committees>

<sup>5</sup> Concannon, G. (2016). Committees in a unicameral parliament: impact of a majority government on the ACT Legislative Assembly committee system. *Australasian Parliamentary Review*, 28(1), 57-70.

<sup>6</sup> *ibid*

<sup>7</sup> School of Public Policy, University College London,. (2016). *Checks and Balances in Single Chamber Parliaments: a Comparative Study*. London, UK. Retrieved from <https://www.ucl.ac.uk/spp/publications/unit-publications/24.pdf>

<sup>8</sup> *ibid*

3. Further, as part of this review, that the committee consider the implications and method of entrenching matters as outlined in recommendation nine of the report and consider alternative accountability mechanisms in lieu of entrenchment.

The Queensland Greens reiterate our point from section one that we consider entrenchment of the committee system desirable but feel it represents only a limited improvement on the status quo in terms of accountability. While entrenchment of committees would prevent the government from simply removing committees, it would not stop them from filling committees with government members or simply disregarding their recommendations.

We would like to propose some options for making the committee system more accessible to and reflective of the public, as well as some options that would indirectly strengthen committees by providing accountability through changes to parliament.

### **Committee reform options**

- **Allow Committees to propose amendments to legislation**

Currently, committees can only make recommendations to any change of legislation to which the executive is expected to respond. Allowing a committee to draft and propose amendments to legislation while in committee to subsequently be voted on by parliament is one way of empowering committees relative to the executive.

Another suggestion, derived from the New Zealand system, is to include any amendment that committee members wish to include (where appropriate and can be drafted), then allow the committee to vote on each amendment.

Any amendment that passes by consensus in committee is considered part of the bill and voted on as part of the second reading. All other amendments that have 50% support or better should be considered in Parliament as a normal amendment. These mechanisms allow committees to make and approve amendments that are well supported without necessarily requiring the intervention of the executive.

- **Allow Committees to Initiate legislation**

Currently committees are not empowered to create legislation (though individual members are empowered to create private members bills).

One of the more interesting features of the Scottish committees system is the ability to allow committees to create bills based on the area of specialisation of the committee itself. This could be incorporated into other features such as the hearing of petitions (below) or as



a result of an inquiry by the minister. This mechanism presents a non-executive path for the introduction of legislation, but would still require the support of government to pass the legislature.

- **Expand scope of committees to include the investigation of well supported petitions**

Currently petitions to parliament are responded to by the government with action on any specific issue left to the executive to act on, which often tends to demoralise the petitioners when the executive chooses to take no action.

In the case of submissions with a significant support base, or the support of at least one MP, a referral for further inquiry by the appropriate committee may allow MPs to debate the issue without significant disruption to the planned agenda of the parliament. While it still may take a significant effort to pass specific legislation this way, it would allow for proper consultation on issues that the public find significant, independent of the whims of the executive.

- **Introduce minority reports as part of committee releases**

Currently, the reports from a Queensland Committee represent the view of the majority on committee. This makes it hard to identify dissenting voices to a piece of legislation on committee.

As is the practice with Australian federal committees as well as those from New Zealand, we recommend that dissenting reports be an option for minority opinions on committee and be released with the committee report. This should open up to scrutiny any opposing viewpoints from the majority and lend support to public debates on issues facing the parliament without adding significant cost

- **Proportional assignment of members to committee.**

Currently, assignments of MPs to committees are done by a vote of the legislative council within the proportions set by the Parliament of Queensland Act<sup>9</sup>, which ensures that the executive will always have at least as many members on committee as the opposition and cross bench combined.

As a suggested process, parties and independents could be automatically assigned numbers of seats on committees relative to their proportions of MPs who are not members of the executive. This should have the effect of making it hard for either the government or opposition to completely control all committees and would complement a more politically diverse parliament if there is an increase in the number cross bench members.

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<sup>9</sup> *Parliament of Queensland Act 2001 (Qld) s81 & s91 (Austl.)*

While this may be in line in practice where there is a minority government, such as now, a more formal arrangement may be more desirable than an ad-hoc one and represents no extra risk to the legislative agenda of the government of the day.

- **Introduce citizen juries in parallel to the committee**

Currently, committees are arranged to either approve the government's legislative agenda or at the very least not oppose it by making sure the numbers in each committee have equal numbers of government and non-government members. Introducing a citizen's jury removes that possibility by handing the final decision on recommendations to a group independent of parliament and partisan influence.

Under this system a jury is selected, and is presented with the same information without any direct interaction with the committee itself. The committee members will make a set of recommendations to consider, but instead of voting on those amendments as they would now, the citizen jury has the final say on the recommendations with support from parliamentary staff where required.

The advantage to this is that a jury can be selected that is largely independent of partisanship to deliberate on legislation but would allow the government to control the legislative agenda in parliament, only now having to explain why it went against the recommendations of the jury. This will mean that the government can be held to account without the committee being accused of a known bias.

It would also not prevent amendments or the rejection of inappropriate legislation, as the government would still have the confidence of parliament, which would also be the case with a more robust accountability mechanism like proportional representation.

- **Make polling/surveying/online feedback options available to committees**

A common issue that many citizens face when they wish to engage with a committee is the daunting prospect of producing a submission. While the guidelines for submission set the requirements quite low, it can be a challenge to provide meaningful feedback to committee, leaving professional groups to dominate feedback.

There could be potentially many ways to approach this, and certainly the FAC did attempt this with their unsecured survey on 4 year terms, but you could provide options for polling people online using the electoral roll to authenticate users. There may be scope to include public surveying by a polling firm on an issue so long as guidelines existed for how such a survey may be conducted. Another option would be to provide an online feedback forum with the committee notes to stimulate debate.

The key point with all of these options is to lower the entry level for citizens to interact with government, acknowledging there would be some cost to government to implement and may take a few iterations to perfect.

### **Non-Committee options**

- **Introduce Proportional Representation**

A common factor amongst Westminster-based committee systems in our investigation was that there is a tendency for systems with at least some proportional representation to devolve more powers to committee than those with majoritarian style systems.

If there was interest in increasing the diversity of membership on committees one way of doing that may be to introduce proportional representation to get a more politically diverse committee appointed. Currently, committees are dominated by government and opposition members, as is the parliament itself, however well over 20% of the population in Queensland did not vote for either of those parties and in turn have either no representation on committee or at best their second or third choice party<sup>10</sup>.

As we have suggested in several submissions before this one, we would recommend either a Mixed Member Proportional (Similar to New Zealand) system if you wanted to maintain a unicameral parliamentary system, or to reintroduce a Legislative Assembly using a single list proportional system for the entire state (Similar to the Legislative Assembly in New South Wales).

Both systems would provide significant increase in diversity and accountability if implemented fairly. It would also introduce enough accountability of the executive that concerns about the centralisation of control under 4 year terms would be significantly lessened.

- **Introduce a recall mechanism for politicians**

A recall mechanism is one way to ensure that individual members of parliament are living up to the promises that they made during an election that the Queensland Greens would give qualified support for.

A recall election is started by a petition of the constituents of an MP, when a certain threshold of support for recall is met, a fresh election is held for that district. This mechanism is good for removing MPs that either consistently break promises, do not meet community standards on behaviour or simply do not represent the interests of locals.

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<sup>10</sup> Electoral Commission of Queensland. (2016). *2015 State General Election - Election Summary*. Retrieved 27 January 2016, from <http://results.ecq.qld.gov.au/elections/state/State2015/results/summary.html>

Caution however must be taken in setting up mechanisms for recalls, as members can be removed for spurious reasons using voter apathy towards elections and politicians to remove political opposition.

We are not going to make a specific recommendation on the petition requirements, reasoning or recall election rules in this submission; we are only presenting this as one potential idea for increasing accountability on members.

- **Citizen Initiated Referendums**

A citizen initiated referendum (CIR) could be an alternative form of accountability through our system that would bypass the regular legislative method to allow citizens to implement laws directly.

A petition is started to create a CIR, with clear legislative goals and requirements with parliamentary services would need to review the CIR terms to ensure that legislation could be drafted that met the goals of the petitioners. Once a threshold limit has been reached, legislation is drafted, reviewed by committee and terms set for the campaign.

A CIR represents a risk to the legislative agenda of a government, which may be considered a good thing by some, but most elected governments would probably find that problematic, though with the correct settings on the threshold levels they should be relatively rare. There is also a question on whether a CIR should be binding (like those held in Sweden) or non-binding (like those held in New Zealand) and also potentially significant costs associated with running referendums compared to their value to society.

## Appendix A: Comparison table of selected committee systems

Jurisdiction	Parliament Type	Election System	Areas of Inquiry						Referral	Outputs				Response
			Inquiry	Bills	Estimate	Petitions	Create Bills	Treaties		Review Decision	Majority Report	Majority Recom.	Minority Report	
<b>ACT</b>	Unicameral	Hare-Clarke Multi Member Electorates	X	X	X				Self-Referral from LA	X	X			Within 3 months
<b>New Zealand</b>	Unicameral	Mixed Member Proportional	X	X	X	X		X	Automatic	X	X		X*	-
<b>Sweden</b>	Unicameral	Open List Multi Member	X	X	X			X	Automatic	X	X	X		-
<b>Denmark</b>	Unicameral	Closed List Multi Member	X	X	X				Automatic	X	X			-
<b>Scotland</b>	Unicameral	Mixed Member Proportional	X	X	X	X	X	X	Automatic	X	X	X	X	Within 2 Months
<b>Quebec</b>	Unicameral	Single Member FPTP	X	X	X				Automatic	X	X			-
<b>British Columbia</b>	Unicameral	Single Member FPTP	X	X	X				Automatic	X	X			No Response Required

\* New Zealand requires a consensus decision to automatically amend a bill in committee

### Sources

<http://www.parliament.act.gov.au/learn-about-the-assembly/fact-sheets/committees>  
<http://www.parliament.nz/en-nz/about-parliament/how-parliament-works/fact-sheets/00HOOOCPubResAboutFactSheetsSelect1/parliament-brief-select-committees>  
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