

**PUBLIC SECTOR BILL 2022**

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**Electoral  
Commission**  
QUEENSLAND

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Committee Secretary  
Economics and Governance Committee  
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Dear Ms Langford

Thank you for the opportunity to provide a submission for the Economics and Governance Committee's (the Committee) consideration of the Public Sector Bill 2022 (the bill).

The Electoral Commission of Queensland (ECQ) supports the policy intentions of the bill to ensure the Queensland public sector is fair and responsive, an employer of choice, and a leader in public administration. I also wish to voice my support for requirements to strengthen the relationship with Aboriginal peoples and Torres Strait Islander peoples.

However, I wish to raise concerns about the application of the public sector review function to the ECQ, under Chapter 6, Part 8 of the bill. The ECQ supports and welcomes appropriate external scrutiny of its operations, and notes that provisions for administrative reviews currently exist under the *Public Service Act 2008*. However, the review powers under the bill are significantly more intrusive than current provisions, and, in certain circumstances, granting powers to the Minister or the Public Sector Governance Council to commence a public sector review of the ECQ could present a real or perceived threat to the ECQ's independence.

While there are numerous independent statutory bodies in the Queensland public sector, the ECQ is *sui generis* due to its role in conducting free, fair and transparent elections, including regulating the operations of registered political parties and supporting regular reviews of electoral boundaries. The ECQ's independence ensures that, in a real and perceived sense, its work is done impartially.

The ECQ undertakes audits and compliance reviews of registered political parties' and candidates' finances. This inevitably involves examination of the personal and financial dealings of candidates, including elected representatives. The ECQ regularly imposes penalties in instances of non-compliance. In 2021-22, the ECQ issued 378 penalty infringement notices to State and local government electoral participants, recovered \$4,200 from a third-party for exceeding the electoral expenditure cap and successfully prosecuted a local government candidate for not meeting their disclosure obligations. These activities increase transparency and accountability of electoral finances in Queensland.

The ECQ must also conduct audits of political party preselection ballots for State elections. This involves the collection and detailed examination of sensitive documents regarding the political activities of ordinary Queenslanders, as well as elected representatives and other candidates. The outcome of these audit activities are reported to Parliament and could result in adverse findings against registered political parties. Given the sensitivity of these audits, there must be confidence they are conducted with independence and impartiality.

The significant powers granted to a reviewing entity in a public sector review, such as entering official premises, requiring production of documents and conducting employee interviews could have unintended consequences. An inappropriately timed public sector review could, at best, undermine the independence of the ECQ and, at worst, result in a chilling effect on the ECQ discharging its important regulatory and compliance functions in accordance with section 7 of the *Electoral Act 1992*, or undermine public confidence in ECQ's perceived ability to conduct free and fair elections.

The ECQ was consulted by both the Department of the Premier and Cabinet and the Department of Justice and Attorney-General during development of the bill, and I acknowledge the genuine consideration of the ECQ's feedback during the legislative development process.

However, to prevent perceptions of diminution of the ECQ's independence, further consideration is requested to exclude the ECQ from the application of the public sector review function under clause 254 of the bill. I note that the agencies currently listed are considered 'core integrity bodies' as defined by Professor Coaldrake and that he explicitly (and properly) excluded the ECQ from this definition for the purposes of the report. However, it does not necessarily follow that the ECQ should not also be excluded from the operation of clause 254 of the bill for the reasons identified.

Further, I understand that these agencies are subject to existing periodic reviews, such as strategic reviews or Parliamentary committee oversight, as an alternative to public sector reviews. The ECQ would support the introduction of similar oversight arrangements, with reviews conducted at regular intervals such as through a strategic review process that applies to similar independent agencies.

In the ECQ's case, such reviews would best be undertaken in the year following the local government quadrennial elections and the State general election to limit any operational impacts on election delivery and allow appropriate scrutiny of the ECQ's electoral responsibilities.

The timing of any review would also need to be cognisant of the operations of the Queensland Redistribution Commission and Local Government Change Commission. Both of these bodies involve the Electoral Commissioner and require administrative support from the ECQ. It would be highly undesirable for there to be any perception that any review was triggered by political stakeholders as a consequence of dissatisfaction with the outcomes of these independent boundary reviews.

I would also draw the committee's attention to similar oversight mechanisms of electoral management bodies in other Australian jurisdictions by their respective

parliaments, such as through the Australian Parliament's Joint Standing Committee on Electoral Matters.

I also note that other options already exist for reviews and inquiries into the ECQ's functions to be initiated by government, outside the existing administrative review function. Previous examples include the Legal Affairs and Community Safety Committee's inquiry into the publication of results of the local government and state by-elections in March 2020, and the *Inquiry Report: a review of the conduct of the 2016 local government elections, the referendum and the Toowoomba South by-election*, which resulted in tangible improvements to election delivery.

Thank you for the opportunity to put forward this submission and I hope that it assists the committee's consideration of the bill.

Should you require further information regarding this matter, please contact Ms Cecelia Nuttall, Director, Strategy, Policy and Governance, ECQ on 1300 881 665 or at [Cecelia.Nuttall@ecq.qld.gov.au](mailto:Cecelia.Nuttall@ecq.qld.gov.au).

I trust this information is of assistance.

Yours sincerely



Pat Vidgen PSM  
**Electoral Commissioner**