



Research Director

Finance & Administration Committee
Parliament House
George Street
Brisbane QLD 4000

028

20 October, 2015

Director,

RE: Inquiries into possible changes to Queensland Parliamentary terms

Please find attached our submission to the Finance & Administration Committee to the inquiry into changes in Queensland Parliamentary terms as well as the changes proposed by the the *Constitution (Fixed Term Parliament) Amendment Bill 2015* and the *Constitution (Fixed Term Parliament) Referendum Bill 2015*.

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

Yours sincerely,

Neil Cotter
Queensland Greens Secretary

Queensland Greens

Inquiries into possible changes to Queensland Parliamentary terms - *Submission*

Prepared - 20 October 2015

Foreword

The following submission represents the considered position of the Queensland Greens on the Inquiry into Possible changes to Queensland Parliamentary terms, including comment on the *Constitution (Fixed Term Parliament) Amendment Bill 2015* and *Constitution (Fixed Term Parliament) Referendum Bill 2015*, as well as the general principles that the Greens take to electoral reform in general.

We consider grassroots participation in elections to be a critical factor in a functioning and effective democracy, and we take all changes to that system very seriously. We also strive to be as constructive as we possibly can in response to changes as they arise, so as to give those tasked with reviewing our system the most complete option set that can be compiled.

The Queensland Greens would like to thank the Finance and Administration Committee for inviting us to make a submission on the bill. We would also like to thank Mr Ian Walker, Member for Mansfield, for sponsoring the bill. All efforts to review our electoral system make a contribution to the continuous improvement of that system, and we appreciate the efforts that are undertaken to review the electoral system.

Greens Position on Electoral Reform

The position of the Greens on electoral reform in general is that our electoral system should encourage the participation of all voters while managing the influences of political parties, lobbyists, corporations, unions and other groups.

When considering changes to the electoral system we consider the following factors in determining their value to the principle of improving democracy.

- Do voters have control over the key aspects of the electoral system
- Is the process of election transparent to the voters, both in terms of availability and accessibility
- Is the electoral system reasonably free of biases that unduly influence voter behaviour
- Is the electoral system well understood and considered largely fair by all voters
- Does the electoral system unduly advantage specific political interests above their support in the voting community
- Is the electoral system run by managers that are independent of political decision making and external influences
- Do all voters have an equal say in the election of a government that is expected to represent their collective interests
- Is the election system susceptible to financial inducements in such a way as to undermine the say of voters in how they are governed
- Does the electoral system grant a level playing field for ideas based on their merit rather than a campaign's financial resources.

Summary of Position on term lengths, fixed terms and related issues

Fixed Terms

In Queensland, we have three year, variable term elections. The variation comes from allowing the Executive to choose an election date no later than three years after the appointment of the parliament¹.

This approach gives considerable power to the government of the day to set an election date that suits their political purposes, either by calling the election early to avoid issues later on, or by calling the election late to rebuild popular support.

The average term length of the last 5 Elections was 2 years, 9 months² with elections being held on: -

- 31 January 2015
- 24 March 2012
- 21 March 2009
- 9 September 2006
- 7 February 2004

On the provision for fixed terms, the policy of the Queensland Greens is as follows.

From - <http://qld.greens.org.au/policies/qld/democracy>

Goals

...

8. Fixed terms of office with fixed election dates should be introduced with a recall mechanism available via a citizen initiated referendum.

Aim

...

3. Introduce fixed terms for the Legislative Assembly.

Moving to fixed term elections is a minor reform that will reduce slightly the impact of the incumbency advantage and allow for better planning of election campaigns and preselection. It will also allow for business and citizens to plan for and around

¹ Constitution Act Amendment Act 1890, section 2 part 2

² Queensland Legislative Assembly,. (2015). *Briefing Notes - Constitution (Fixed Term Parliament) Amendment Bill 2015*. Brisbane: Queensland Parliamentary Services. Retrieved 20 September 2015, from http://www.legislation.qld.gov.au/Bills/55PDF/2015/ConsFixedTermPAB15_PE.pdf

elections, and to avoid conflicts with significant events. Fixed terms are Queensland Greens³ and Australian Greens policy⁴.

1. RECOMMENDATION: The Queensland Greens **Support Fixed Term elections.**

Term Lengths

Currently, state elections in Queensland are set to be held within every three years from the return of the writ of election⁵. In practice this has often meant that parliament has run shorter than expected. The average cited in the LNP's notes on the proposed bill is 2 years, 9 months⁶.

The purpose of the proposed legislation is to extend that period to be 4 years from the return of the last writ with a few exceptions (i.e. when confidence is lost, when supply is blocked etc.)⁷

On hearing the evidence presented to the committee regarding term lengths as well as internal conversations and debates of the issues surrounding term lengths, the Queensland Greens have adopted the a position to support three year terms.

The arguments for a four year term are highly questionable, and often simply untested in nature.

1. *A 4 year term will allow Governments to place long term strategic goals over short term political goals.*

The argument that longer terms allow governments to be more strategic is often the most commonly quoted advantage to that change, but evidence to that effect still remains difficult to find regardless of the fact that all states (other than Queensland), the Northern Territory and significant numbers of councils use four year terms. This is most likely related to the nature of our perception of what strategic thinking looks like.

Overall we find the argument is not so much about the strategic ability of government as to do with the interaction of special interests with government. Often short-term thinking is a word that columnists add to articles in response

³ <http://qld.greens.org.au/policies/qld/democracy>

⁴ <http://greens.org.au/policies/constitutional-reform-and-democracy>

⁵ Constitution Act Amendment Act 1890, section 2 part 2

⁶ Queensland Legislative Assembly,. (2015). *Briefing Notes - Constitution (Fixed Term Parliament) Amendment Bill 2015*. Brisbane: Queensland Parliamentary Services. Retrieved 20 September 2015, from http://www.legislation.qld.gov.au/Bills/55PDF/2015/ConsFixedTermPAB15_PE.pdf

⁷ *ibid*

to a decision simply not going their way, when in reality community pressure to moderate the excesses of government policy is really a design feature of democracy.

It also tends to be a concern thrown around regardless of term lengths. The Rees/Keneally ALP government in NSW was often accused of short term thinking evidenced by many leadership changes⁸, but that happened under fixed four year terms which have been in place in NSW since 1981. As was the case with the closing days of the Bartlett/Giddings government in Tasmania, also under four year terms introduced in 1972. Changing the length of time governments run for is highly unlikely to change the perception of a government, nor particularly would it change behaviour of governments.

If a government's program is supported by the electorate then presumably it would be returned for a subsequent term. If it cannot convince the electorate to give it that new mandate then it does not deserve to continue. The history of governments in Queensland clearly shows aside from most recently that mandates are generally renewed for a number of consecutive terms.

2. A 4 year term will provide legislative certainty/consistency to business

This argument is often accompanied by claims that citizens would also be afforded such certainty, but largely the focus has always been on business and its ability to deal with legislative change.

Business lobbies and organisations often complain about the impacts of regular elections in terms of economic losses of consumers being more risk adverse during election periods. The evidence for this is almost non existent, with articles mentioning it often citing very little change in consumer spending⁹ or are related to some initial changes in behaviour that moderates or reverses after the election is completed¹⁰.

Legislative certainty is also a very odd requirement. While there is no doubt about the ability of government to adversely affect the operations of businesses, there appears to be an assumption made that businesses should be shielded from the possibility of change inherent in a change in government,

⁸ Examples - <http://www.crikey.com.au/2011/01/18/keneallys-electricity-sell-off-a-short-term-cash-grab/>, <http://www.news.com.au/national/now-its-time-for-the-real-kristina-keneally/story-e6frfkp9-1225910136802>

⁹ <http://www.businessinsider.com.au/politics-is-meaningless-to-us-consumers-2015-8>

¹⁰ <http://www.abc.net.au/am/content/2004/s1197106.htm>

something that would never be afforded to the population in general, but such a possibility is inherent to the democratic process.

We also reject that uncertainty around legislation is a major driver of business risk, as it is only one very small part of that risk. Business faces competitive risk from all quarters, from local and foreign sources, large and small business as well as technical, financial and managerial risk. Government legislation is by no means an insignificant risk, however an extra year to govern is likely to end in a zero-sum gain in terms of what business is likely to gain and lose from governments more empowered to implement their agenda.

3. *A 4 year term would allow government to better adapt to the role that they have begun without considering the political pressure of elections*

This is one of the more persistent arguments around longer terms, and there is some logic to this claim; governing is not a job you simply step into and carry on with, it is a discreet skill that takes quite a lot of briefing, on the job training and support from the public service to achieve. However the political pressure of elections is in fact democracy in action, the ability of the people to hold the government to account. That pressure is an important part of a democratic system, the less there is the less democratic it is.

Governments in Queensland have been relatively stable. The average length of a political party's term in office is 8.39 years since federation¹¹, and with the exceptions of the Borbidge and Newman governments, Queensland governments in the last 50 years tend to run at least two terms¹². The idea that every election ends in governments having to relearn everything is fallacious. Concerns about transition costs could be mitigated with other measures including but not limited to implementation and funding of open governance principles.

4. *A 4 year term would align us with all other states*

While this is a true statement, there is no imperative to align our system with other states. If there was a compelling case for synchronisation of state electoral laws, one could make an argument that Queensland should make other, much more drastic changes to its electoral system to realise that ideal.

Queensland is alone in not having an Upper House or a proportionally

¹¹ Derived from

https://en.wikipedia.org/wiki/List_of_Premiers_of_Queensland_by_time_in_officehttps://en.wikipedia.org/wiki/List_of_Premiers_of_Queensland_by_time_in_office

¹² *ibid*

allocated parliament, and is out of step with other states on electoral financing, donations, preference arrangements (optional/compulsory), voter registration and an array of other minor differences.

While all of these things are arguable, as a party we subscribe to the idea of the most open and accountable government that we can have, and that accountability has to be to the electorate. Elections are the main mechanism offered to the public to hold governments to account, and the proposal removes one election from every twelve years. That means an extra year for governments to implement legislation without having to get a mandate from the electorate.

There is little evidence that demonstrates a four year term is superior in terms of improved performance of government. However if terms are extended, there will be a significant negative impact on accountability and public oversight, which is not in the interests of democracy.

This is particularly the case in Queensland, being the only state without the major accountability mechanism like an Upper House to provide some degree of continuing scrutiny over the actions of the government of the day and the potential for at least some checks and balances on an Executive that is usually almost completely unconstrained.

2. **RECOMMENDATION: The Queensland Greens will actively oppose any changes to the constitution of Queensland that will extend the term length of State Parliament beyond 3 years.**

In Response to the Constitutional Amendments & Referendum

Term Lengths and Fixed Terms

In regards to the provisions of the *Constitution (Fixed Term Parliament) Amendment Bill 2015*, the Queensland Greens support the fixed term arrangements, but oppose the four year term length.

Election Timing

Presuming that four year fixed terms are adopted, offsetting the state election exactly in the midterm for council elections is a sensible and reasonable measure that we would support.

If three year fixed terms were to be adopted, we would suggest the first or second week of September as the ideal spot for an offset of a minimum of six months from council elections at worst.

Removing the Referendum requirement from the legislation

It has been noted in public forums that the draft has been created to the exclusion of the clause that requires that term limit extensions be sent to a referendum. There are very good reasons to not let parliaments and especially executive government, who have a vested interest in such matters, have unilateral control over term lengths. It also goes some way to undermining the certainty and incumbency advantage issues that the bill presents.

3. RECOMMENDATION: The Queensland Greens **Oppose the removal of the clause requiring a referendum to extend terms.**

Referendum on term extensions

A statewide referendum is a modestly rare occurrence. Politicians are often loathe to give up their ability to legislate, but sometimes choose to initiate referendums in situations where the decision has significant public interest. Extending the term limit for politicians hardly seems to meet that informal goal, even in light of the fact it would be required by legislation to implement in this case.

Issues previously addressed by referendum include religious instruction in state schools, prohibition on alcohol sale and production, dismantling the legislative council and daylight saving. All of these topics have significant sway in public debate even today and are hotly debated topics. Without the prompting of a specific

piece of legislation, the legislative council¹³, alcohol regulation¹⁴, religious education¹⁵ and daylight saving¹⁶ all got articles written about them this year; this is simply not the case for extended terms. By contrast, there will be significant public interest in any proposal for politicians to give themselves more time in power without facing election, which reinforces the case for our recommendation 3 above that a stand alone referendum should be held on this question.

It is the opinion of the Queensland Greens that a referendum proposing four year terms could be the least inspiring referendum of all time.

We would also be worried about any potential question, which by its nature will have to be a simple affirmation of the bill as it stands. If people wanted fixed terms but not four year terms, even though fixed terms could be achieved without a referendum, politicians could take the result of the election to mean that neither fixed or longer terms are desirable.

If there is to be a referendum on the conduct of elections, a meaningful question on the overall design of our electoral system may be more desirable. It would ask a question that would mean more to voters in Queensland and actually may lead to genuine reform.

4. RECOMMENDATION: The Queensland Greens would not support a referendum on 4 year terms and fixed terms being considered together, but would support the introduction of fixed terms independent of a referendum.

¹³ Legislative Council articles -

<http://www.theage.com.au/comment/ct-editorial/queensland-election-2015-northern-politics-prove-the-value-of-upper-houses-20150114-12nxyq.html>

<http://www.couriermail.com.au/news/opinion/opinion-restoring-the-upper-house-in-queensland-is-not-the-answer/story-fnihsr9v-1227018307800>

¹⁴Alcohol articles -

<http://www.theaustralian.com.au/opinion/columnists/lockout-laws-work-regulation-key-to-curbing-alcohol-abuse/story-e6frg7eo-1227554708673>

<http://www.abc.net.au/news/2015-06-05/hinkler-mp-calls-for-fairer-alcohol-tax/6524284>

¹⁵ Religious Education Articles -

http://www.theaustralian.com.au/subscribe/news/1/index.html?sourceCode=TAWEB_WRE170_a&mode=premium&dest=http://www.theaustralian.com.au/national-affairs/education/phonics-faith-and-coding-for-primary-school-kids/story-fn59nlz9-1227534083014?sv=2f37b94f8cac5b5ff430d9cafd1ef41&memtype=anonymous

¹⁶Daylight Savings Articles -

<http://www.brisbanetimes.com.au/queensland/daylight-saving-sun-sets-on-queenslands-chances-of-changing-clocks-20151003-gk0l5r.html>

<http://www.thechronicle.com.au/news/please-please-give-us-daylight-saving/2790455/>

Electoral Reform

If a referendum were to be held on electoral reform matters, we would consider the following matters to be of significant priority and scope to consider: -

- Mixed member Proportional Representation in the Legislative Assembly
- Return of a Legislative Council, proportionally elected.
- Citizen Initiated Referendums

More broadly, if we are to extend terms at the expense of accountability to the system, we would also be supportive of reforms along these lines:

- Potential for Increased scope/powers for parliamentary committees including the ability to amend legislation
- Increased funding for the ECQ and parliamentary services to educate and engage citizens in the legislative and electoral processes of Queensland
- Increased regulation and transparency of party activities
- Campaign expenditure caps
- Donor transparency and donation caps
- Banning of political donations from for-profit organisations
- Open Government reforms and expansions of right to information (RTI) laws
- Severely reduce the Cabinet in Confidence exemption from RTI
- Better whistleblower protections

We would also like to propose that wider consultations on electoral reforms be a regular part of our electoral system. We highly recommend a committee be formed after every third election (approximately every 10 years), made up of permanent residents chosen to be a statistically random sample of the state to form a committee to review electoral matters and consider changes to our electoral system either to make recommendations on system changes or to create a package of reforms to be taken to a referendum.

This approach hopefully will move us from the highly partisan and self-interested reforms that have dominated the post EARC reform period and move us more towards a community based approach to electoral reform.

5. **RECOMMENDATION: The Queensland Greens Support a broader based investigation of democratic issues. We would like to see a sortition committee formed of Queenslanders to investigate options with the option to approve the change through legislation or referendum as required.**

Conclusion

The summary of our positions is as follows: -

1. RECOMMENDATION: The Queensland Greens **Support Fixed Term elections.**

2. RECOMMENDATION: The Queensland Greens **will actively oppose any changes to the constitution of Queensland that will extend the term length of State Parliament beyond 3 years**

3. RECOMMENDATION: The Queensland Greens **Oppose the removal of the clause requiring a referendum to extend terms.**

4. RECOMMENDATION: The Queensland Greens **would not support a referendum on 4 year terms and fixed terms being considered together, but would support the introduction of fixed terms independent of a referendum.**

5. RECOMMENDATION: The Queensland Greens **Support a broader based investigation of democratic issues.** We would like to see a **sortition committee formed of Queenslanders to investigate options** with the option to **approve the change through legislation or referendum as required.**

We believe that longer terms will be significantly undermine the quality of democracy in Queensland, further alienating the government from the people it is supposed to represent. We recognise the value of fixed terms in limiting the control that executive government has over the electoral system.

We are also quite skeptical about the value provided by calling for a referendum on this issue at great expense to the public in general without very much to gain for it. Though if part of a broader package of questions on and around democratic reform, it might be defensible.