

Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025

Submission No: 018
Submission By: Electoral Commission Queensland

15 December 2025



**Electoral
Commission**
QUEENSLAND

Ms Amanda Cavill
Committee Secretary
Local Government, Small Business and Customer Service Committee
Parliament House
George Street
BRISBANE QLD 4000
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Dear Ms Cavill

Thank you for the opportunity to provide a submission to the Local Government, Small Business and Customer Service Committee (the Committee) on the *Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025* (the Bill).


The Electoral Commission of Queensland (ECQ) has considered the Bill and has provided responses (**Attachment 1**) to the Bill's proposed amendments of the *City of Brisbane Act 2010*, the *Local Government Act 2009* and the *Local Government Electoral Act 2011*. It should be noted that the ECQ seeks to only provide factual information on the impacts of any amendments applied and should not be viewed as policy recommendations to the Queensland Government.

The ECQ has provided no responses to the amendments to the *City of Brisbane Regulation 2012* and the *Local Government Regulation 2012*.

Should you require further information regarding this matter, please contact Mr Wade Lewis, Assistant Electoral Commissioner, on [REDACTED] or at [REDACTED] or Mr Matthew Thurlby, Director, Funding, Disclosure and Compliance on [REDACTED] or at [REDACTED]

I trust this information is of assistance.

Yours sincerely


Pat Vidgen PSM
Electoral Commissioner

Encl.

Electoral Commission of Queensland submission to the Local Government, Small Business and Customer Service Committee

Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025

About the Electoral Commission of Queensland

The Electoral Commission of Queensland (ECQ) is an independent statutory authority, responsible for the impartial conduct of Queensland elections.

The ECQ performs functions under its enabling legislation, the *Electoral Act 1992* as well as the *Local Government Electoral Act 2011*, *Referendums Act 1997*, *Local Government Act 2009*, *City of Brisbane Act 2010* and *Industrial Relations Act 2016*. In performing these functions, the ECQ operates to achieve the objectives of its strategic plan:

- trusted to deliver Queensland elections
- increase electoral awareness and participation
- maintain electoral readiness, and
- promote and enforce compliance with electoral laws.

Introduction

The ECQ welcomes the opportunity to provide a submission to the Local Government, Small Business and Customer Service Committee (the Committee) on the *Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025* (the Bill). The ECQ aims to provide the committee advice on the operational impacts of key amendments where the ECQ has responsibility for implementation as well some additional general feedback for the Committees consideration.

1. Amendment of *City of Brisbane Act 2010*

1.1 Amendment of s 18 (Review of wards of Brisbane)

The ECQ supports the amendment which enables the ECQ to conduct the review of enrolment within the internal wards of Brisbane. In 2021, the ECQ previously requested this amendment be implemented.

Currently, the ECQ supplies electoral roll data to Brisbane City Council and prompts them to report to the ECQ and the Minister with the results of their enrolment review, which initiates the boundary review process. This amendment will streamline the commencement of enrolment reviews and reduce red tape for the Brisbane City Council.

1.2 Amendment of s 155 (Disqualification because of other high office)

The ECQ notes this amendment disqualifies a person from being a councillor while the person is a candidate for an election of a member of the Legislative Assembly, under the *Electoral Act 1992*.

This amendment seems analogous to section 26(4) of the *Local Government Electoral Act 2011* which seems intended to have the effect that a sitting member of the Legislative Assembly must resign on becoming a candidate for election as a councillor.

2. Amendments of *Local Government Act 2009*

2.1 Amendment of s 16 (Review of divisions and councillors)

Similarly to section 1.1 above, the ECQ supports this amendment which enables the ECQ to conduct the enrolment review of Queensland's divided local governments, and realigns the timing to be consistent with the enrolment review of the City of Brisbane's wards.

Currently, divided local governments (excluding Brisbane City Council and Indigenous councils) must conduct enrolment reviews of their divisions by 1 March in the year before a quadrennial election. The amendment would move this reporting date to 1 October in the year that is two years before the quadrennial election, which aligns with legislative provisions in the *City of Brisbane Act 2010*.

Currently, the ECQ supplies electoral roll data to divided councils and prompts them to report to the ECQ and the Minister with the results of their enrolment review, which then enables the Minister to refer a change proposal to the Local Government Change Commission for its assessment. This amendment will streamline the commencement of enrolment reviews and reduce red tape for divided councils.

Realigning the timing will also be an improvement for the ECQ, as well as the impacted divided councils, as reviews will be able to commence earlier, ensuring more time for the Local Government Change Commission to consult with impacted stakeholders, prepare its reports and deliver its recommendations for implementation prior to the quadrennial election.

2.2 Amendment of s 155 (Disqualification because of other high office)

See the response provided in 1.2 above.

3. Amendment of *Local Government Electoral Act 2011*

3.1 Amendment of s 26 (Who may be nominated) and Amendment of sch 1 (Other matters nomination must contain)

The ECQ acknowledges that the proposed amendment to the councillor training is intended to reduce red tape for councillors, however the ECQ has previously expressed its preference for retaining the requirement for all candidates, including incumbent councillors to undertake the councillor training.

The ECQ's view is that requiring incumbent councillors to undertake training on election obligations once every four years within six months of again becoming a candidate is not an unreasonable burden given the serious integrity issues which can arise from poorly managed and non-transparent election campaigns. The training, in its current form, includes important information regarding disclosure of gifts, loans and expenditure, expenditure caps, and other issues which may affect a councillor's conduct if elected. The amendment would also appear to not account for legislative amendments or changes in administrative practices which may be introduced in between election events.

The ECQ would also question why an incumbent councillor should be exempt from the training, when other repeat candidates (i.e. those who were not elected) will still be required to re-do the training, despite neither participant having been a candidate for the same period. The ECQ is of the view that being a councillor does not mean increased awareness and preparedness to comply with obligations as a candidate. These candidacy obligations are distinct from any obligations which a person may have as a councillor, and carry significant penalties for non-compliance, including removal from office (for example

see section 172 of the *Local Government Act 2009*, failure to lodge a summary return under the *Local Government Electoral Act 2011* on time), fines or imprisonment. Other examples of matters which do not form part of a councillor's regular duties include provisions relating to how-to-vote cards, expenditure caps, dedicated campaign bank accounts, and group campaign activities.

The ECQ also notes this amendment will also change the statements required to be made on a candidate nomination. The ECQ will update the candidate nomination form and internal ECQ systems to reflect the amendment upon commencement, if passed.

3.2 Amendment of s 45AA (Application for direction that poll be conducted by postal ballot), Amendment of s 45AB (Referral of application to electoral commissioner for recommendation), and Amendment of s 45 (Direction that poll be conducted by postal ballot)

In principle, the ECQ is supportive of the intended purpose of these three amendments regarding the postal ballot application process and has previously requested such a change. The process will be streamlined if the ECQ receives a *copy* of the application for a direction by the Minister that a ballot be conducted by postal ballot directly from the relevant local government and/or simultaneously as the Minister. The current process requires the ECQ to wait for a referral from the Minister prior to being able to provide its recommendation.

However, the application for the direction, as a matter of law, is an application that must be *made* to the Minister. It is the Minister who decides to give or not give the direction. While this is implied in the proposed drafting, it may be appropriate to make this explicit in the legislation.

As presently drafted, section 45AA and 45AB could be interpreted as allowing a substantive application for a *recommendation* be put to the ECQ but no substantive application for a direction being made to the Minister. Additionally, it may be read as though the relevant local government is seeking a particular type of recommendation from the Electoral Commission, which would not be appropriate, nor does it seem that is what is intended as a matter of policy.

The ECQ supports amendments intended to streamline the application process so that the ECQ receives a copy of the application immediately from the relevant local government. Doing so ensures council vacancies are filled in a timely manner and within the statutory deadlines provided for under both the *Local Government Act 2009* and the *Local Government Electoral Act 2011*.

The Committee may consider recommending the proposed amendments be drafted in a way that clarifies the substantive application for a direction a ballot be conducted as a postal ballot is made *to the Minister*, though it may be *delivered* to the ECQ for its independent recommendation to the Minister, in a timely way.

The amendment of s 45AB of the *Local Government Electoral Act 2011* requires the Electoral Commissioner to give the Minister notice of the postal ballot application as soon as practicable after receipt, and to then make a written recommendation and reasons to the Minister. The ECQ remains in a constant state of readiness to deliver by-elections and has a proven track record of providing prompt and well reasoned written recommendations on postal ballot applications to the Minister. Amendments to streamline this process allow the ECQ to provide an earlier recommendation.

The amendment of s 45 of the *Local Government Electoral Act 2011* is similar to current legislation and provides for the Minister to consider the ECQ's recommendation decide whether to give a direction that a poll be conducted as a postal ballot. The ECQ has delivered multiple by-elections in 2025 by postal ballot as directed by the Minister, and if passed the ECQ will continue to deliver postal ballots where directed.

3.5 Amendment of s 177 (Author of election material must be named) and Amendment of s 178 (Distribution of how-to-vote cards)

The ECQ is supportive of both amendments which would allow election advertising and how-to-vote cards to contain a PO box (or other address set by Regulation). The ECQ acknowledges the increasing personal safety risks experienced by elected officials and candidates and notes this amendment will help alleviate some of that concern. The ECQ's educational materials and forms will be updated to reflect this change upon commencement of the provision.

General feedback

The ECQ notes that there are no transitional provisions for the *Local Government Electoral Act 2011*. This omission could present challenges to the ECQ upon commencement of the amendments, should commencement occur during a local government by-election.

By-elections can happen whenever a vacancy arises in the office of councillor (including mayor) in any of the Queensland's 77 local government areas. In the context of the amendments as proposed, this means that a by-election could already be underway at the time that the Bill receives assent and new provisions take effect. This is particularly concerning in relation to two particular areas.

Firstly, there is a risk that the new requirements reducing the scope of mandatory candidate training could come into effect in the middle of a nomination period for a by-election. This would create an inequitable situation whereby one candidate may be required to complete the mandatory training when they nominate at the start of the nomination period, but another candidate in the same situation would not have to complete the mandatory training at the end of the nomination period. This situation could arise in the context of a mayoral by-election, where candidates are incumbent councillors.

The ECQ would also be required to administer the election using two different nomination forms – one which caters to the existing provisions during the first part of the nomination period, and one which caters to the new requirements (contained in clause 140 of the Bill). By necessity, this would require the ECQ to deploy critical system upgrades in the middle of an election period, which would introduce unnecessary risk to the delivery of the by-election, as well as inconvenience stakeholders who may be attempting to nominate for the election or otherwise comply with their obligations.

Secondly, the same fundamental issue could also apply in respect of the changes to authorisation of election material and how-to-vote cards. Again, should the new provisions commence during a by-election period, electoral participants would be required to first publish their street address before the new provisions commenced, and then change that material for future re-prints should they wish to take advantage of the new expanded provisions.

Similarly, in the context of how-to-vote cards, which the ECQ must approve before they are distributed, the lack of transitional provisions may mean that a compliant card for one candidate under the new provisions may not be compliant for another candidate earlier in the election period.

Both of these issues, unless resolved, will create uncertainty amongst the political participants who may be contesting a by-election at the time, including political parties, candidates, third party campaigners, and others. Election participants have previously expressed to the ECQ that they value regulatory certainty and consistency throughout an election period. This certainty provides them confidence when conducting campaign activities such as nominating, preparing advertising collateral, and seeking regulatory approval.

The ECQ encourages the Committee to consider whether transitional provisions should be added to the Bill in respect of the amendments to the *Local Government Electoral Act 2011*. Doing so clarifies, should a by-election be underway at the time of commencement, the pre-amendment provisions continue to apply for that election. The ECQ notes that similar provisions in respect of candidate eligibility have already been included in clause 20 of the Bill.