

Submission 064

From: Bryan Ottone [BOttone@chrc.qld.gov.au]
Sent: Thursday, 29 July 2010 4:51 PM
To: Law, Justice and Safety Committee
Cc: Jenny Moore; Vince Corbin
Subject: SUBMISSION: A NEW LOCAL GOVERNMENT ELECTORAL ACT

Attachments: New Local Government Electoral Act submission.doc

Please find enclosed this Council's submission for the perusal & consideration of the Committee.

Regards

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1) Are the procedures for the division of councils adequate?

Yes

2) If the procedures for the division of councils are not adequate, what changes are required?

Councils should be able to provide suggested make up of divisions provided the tolerances are right and the public has been given 30 days notice.

3) Are the error margins of 10% in local government areas with more than 10,000 electors and 20% in all other cases sufficient?

Present legislation is sufficient.

4) Should the mix of divided and undivided councils remain? If so, should the decision to divide a local government area remain with individual councils?

Councils should be able to decide whether to divide or not. Remaining as a single unit might seem more cohesive in a large area council irrespective of population

5) Are there other matters the Committee should consider in regard to local government divisions?

Councils should have the option of recommending the boundaries & composition of divisions using the criteria and tolerances of the Act where divisions are proposed.

6) Should the Electoral Commission of Queensland be responsible for the administration of the quadrennial local government elections or should this responsibility remain with Council CEOs?

The requirement for the CEO to have the casting vote in the event of a tie resulted in the CEO being wary of being the returning officer. Now that the solving of a tie, by legislation instituting a draw using "round or colored balls", has taken away this concern. The current legislation allows the CEO to engage a third party which could be the ECQ. There are a number of retired CEOs who are available to assist.

Councils should have the choice as to who is engaged to conduct their elections. Whilst local government is a creature of the State, each council is an autonomous entity. The local government best knows its region and is able to respond accordingly.

In the 2008 elections the ECQ engaged a number of rural CEOs who carried out the election for the ECQ. It is important that CEOs be given the authority to stay up to date with running elections as there will always be the need to conduct by- elections.

7) If the ECQ is to be responsible for local government elections should the new Act allow more flexibility in regard to the conduct of the quadrennial elections than the current Act does? If so, how?

The ECQ took enough flexibility with the 2008 election which affected the seriousness of the occasion and any further flexibility should be discouraged.

8) Is the time for the close of the rolls and the date of the elections appropriate?

It would be good to have a wider window of say 1 month if possible.

9) What changes, if any, should be made to the timing of local government elections?

The present timing has been adequate and successful since 1936 – why change it if it works.

10) Is the nomination process adequate? Why?

Yes – it is simple and not onerous. However the legislation needs to spell out the procedure if a person not on the roll wishes to nominate.

11) Does the current system encourage a diverse range of candidates to stand?

Yes. It does nothing to discourage any type of candidate provided they are on the roll.

12) Should a candidate be required to live in the local government area in which they stand for election?

Yes, definitely. With the diversity of the Local Government Act it is important all candidates/councillors live in their local government area.

13) Should a councillor be required to live in the local government area for their whole four year term?

Yes.

14) Should a person be able to stand as a dual candidate for both mayor and councillor?

No – too cumbersome in the electoral process, timing and cost

15) Should the new Act allow mayors to be appointed by their fellow councillors?

Not supported – the present system has generally worked well in Queensland.

16) Are the requirements for disclosure of campaign funding sufficient?

Yes

17) Should candidates make disclosures before, progressively during, and after an election period?

Yes

18) Should all disclosure requirements, such as values, disclosure periods and who must comply, be standardised?

Would be good and appropriate

19) Should particular fundraising activities for local government elections be prohibited?

Yes – because of conflict of interest potentials.

20) Should how-to-vote cards be free from promotional content?

Ones that are used up to an election should be allowed to have promotional material but not used as in Q21

21) Should how-to-vote cards be standard for all candidates? If so, should these be provided in all polling booths and postal vote packs by the Electoral Commission of Queensland?

Yes.

22) What promotional material, such as bunting (continuous signage) and coreflutes, should be allowed during the campaign period and at polling booths on election day?

As long as it does not cause a nuisance or hindrance to voters, the orderly placement in appropriate places seems satisfactory.

23) Should the placement and amount of election campaign material be standard across all local government areas?

Placement – standard.
Amount – optional.

24) Should a ‘media blackout’ period apply for local government elections? Why? For how long?

There is no ‘media blackout’ at present and it does not seem to be a problem. If there is a consensus it should be for 48 hours, however it may be difficult to enforce.

25) Should voting remain compulsory for local government elections in Queensland?

Yes – otherwise it promotes manipulating.

26) Should the option of a postal vote be extended to all voters in every area?

Yes – it was considered successful at CHRC elections.

27) Should a full postal ballot be automatic for some local government areas? If so, why and for which areas?

Yes – where it is considered appropriate because of small populations dispersed over large areas.

28) Should the criteria for pre-polling and postal voting be abolished?

No – but simplified where appropriate. The extension of use of the Federal “general postal voter” and State “special postal voter” permanent postal vote list’ to Local Government

Elections is a must as the limitations of the existing system is causing confusion and unintentional disfranchising of some elderly and disabled electors who are waiting for the postal vote that will never arrive. (See Appendix A)

29) Does the restriction on voters to attend only polling booths in a division in which they are enrolled adversely affect voters? If this were altered what impact would that have on the administration of the elections in that local government?

Yes – all polling booths should have ballot papers for all divisions though it is an additional cost.

This system was used successfully at the first Cairns/Mulgrave election after amalgamation. Based on the resulting data the results were transposed geographically to the Rockhampton City Council election in 2000 with minimal error and using 20,000 less ballot papers than in 1997.

30) Should the new Act allow absent voting? If so, should this be restricted to absent voting within a local government area only?

With the electronic age, it would not be difficult for returning officers to provide appropriate information on nominations for their respective local government areas to say the ECQ to be published on their websites or other electronic accessible area and allow for absent voting.

31) Should the right to vote in Queensland local government elections be extended to non-resident property owners within an area? If so, should this apply to overseas investors?

No – whilst non-resident owners have an interest, they are living in another area of interest and have the ability to vote in that area.

32) Should voting rights be extended to non-resident occupiers (e.g. commercial lessees such as business owners who lease premises within an area but live outside of it)?

No - refer 31

33) Should multiple persons be able to claim non-resident voter eligibility for one property (e.g. two or more non-resident owners or lessees of a property)?

No.

34) Should people, based on the number of properties they own, be entitled to more than one vote per division?

No – against the normal standard system of constitutional voting.

35) Who should be responsible for the creation, verification and maintenance of a non-residents' electoral roll

ECQ/AEC

36) Which voting system is most appropriate for local government elections - Optional Preferential voting,

Compulsory Preferential voting, First-Past-The-Post or Proportional Representation? Why?

1 Member Divisions – Optional Preferential.

Mixed Divisions – Optional Preferential.

Undivided population >40,000 – Optional Preferential.

Undivided population <40,000 – First past the post.

37) Would different voting systems work better for different sized local governments? Why?

Probably because away from the big cities there is less chance of political parties.

38) Should Proportional Representation be introduced for Queensland local government elections?

If so, why and

(a) which model/s should be implemented?

(b) how would this be implemented in divided and undivided councils?

(c) should it apply for all councils? If not, which councils should proportional representation apply to?

No.

39) What other issues should the Committee consider in relation to this inquiry?

Mixed Divisions

Since the recent amalgamations, in an effort to receive appropriate representation for the former areas that make up the new Council, it would have been appreciated if mixed divisions could have been created using the criteria and tolerances used for the creation of divisions. This option is seen as a method of achieving a method of fair representation.

Form 27

The current Local Government Electoral Form 27 requires a small alteration to bring it into line with the similar forms in State and Federal Elections. It needs the “date of birth.....) added in the details on the form. Without the date of birth electoral officials have difficulty where there are 2 or more people in Australia with the same name (there were 10 cases in the RCC Election in 2000)

Section Vote – different division. – Mayoral vote to count and placed separately in a ballot box at the time.

The occasion has arisen (34 occasions in the 2000 RCC Election) where in a Multi-Divisional Council (10 Divisions) electors considered they were not in their correct Division and claimed a section vote. The resultant completed ballot papers were then enclosed in the Envelope and set aside. Contact with the electoral office confirmed that the change of divisions occurred between close of rolls and election day and as a result the Councillor vote could not be counted. However the elector was entitled to vote for the

Mayor as he/she was on the whole of shire roll. There is no direction in the Act or in training to deal with this. (Had there been a close vote the returning officer would have been wise to have opened the envelopes and retrieved the ballot papers). If the vote had been placed separately in a ballot box at the time this would be overcome.

Number of days to conduct a by-election.

Under the current legislation when a vacancy occurs the local government has 70 days to fill the vacancy. This has always been tight and with only 1 minor hiccup you can still get through – just. However a recent incident showed there may be a base for a larger timeframe.

In the case in question Councillor "A" died on Thursday, 18 March 2010. The 70 days concluded on Tuesday 26 May 2010. Councillor A was not buried until Wednesday 31 March 2010 and under indigenous protocol the Notice of Election could not be advertised on the Island Notice Board until 1 April 2010. Finally the election had to be held on a Saturday and nearest was Saturday 22 May 2010. In other words with 13 days lost at the start and 3 at the end, the 70 days were reduced to 54. It fitted but everything was cut to the briefest time in each stage.

In another case Easter intervened so no advertising was considered worthwhile on Easter Saturday and the loss of a week plus days at beginning and end meant a total loss of 14 days, reducing the available to 56 but fortunately the process had started before the Easter problem intervened.

It is suggested that it be extended to 84 days – 12 weeks instead of 70.

Appendix A



Application for registration as a general postal voter for federal elections and special postal voter for Queensland state elections



Office use only	Date received	SC	ACK	RVI	NIN
12		G	N		

If completing by hand use: X in the boxes where appropriate, black or blue ink and BLOCK LETTERS. Note: Giving false or misleading information is a serious offence.

1. Name

Mr Mrs Ms Miss Dr Other

Family name

Given name(s)

2. Your enrolled address

State **QLD** Postcode

3. Postal address As above

State Postcode

4. Date of birth Write dates as dd/mm/yyyy e.g. 25/03/1975

5. Gender

6. Contact details

Daytime (or mobile) phone number ()

Email address

7. I am currently enrolled and seek registration as a general postal voter for federal elections and a special postal voter for state elections because I am:
(Mark appropriate box)

A ^{GD} an elector whose principal place of residence is not within 20 kilometres, by the shortest practicable route, of a polling place

B ^{GD} a patient at a hospital or nursing home (that is not a polling place) and because of serious illness or infirmity I am unable to travel to a polling place

Name and address of the hospital or nursing home

C ^{GN} living at home and because of serious illness or infirmity I am unable to travel to a polling place

D ^{GK} unable to attend a polling place to vote because I am caring for a seriously ill or infirm person who is not in hospital

E ^{GC} serving a prison sentence of less than 3 years, on remand or in periodic detention

F ^{GS} registered as an elector whose address does not appear on the electoral rolls in accordance with s.104 of the Commonwealth Electoral Act 1918

G ^{GR} an elector whose religious beliefs, or membership of a religious order, preclude me from attending a polling place for all, or the greater part of, the polling day

H ^{GH} unable to sign due to a physical incapacity (you must provide a medical certificate stating that you are so physically incapacitated that you are unable to sign your name, unless one has already been provided for enrolment purposes)

I ^{GV} a member of the defence force, or a defence civilian who is serving outside Australia

- an Australian Federal Police officer or staff member who is serving outside Australia

Date of departure Date of return

J ^{GE} an elector who is registered as an overseas elector

8. Signature or mark of elector Date

9. Signature of person signing on behalf of the elector where the elector has provided a medical certificate as per option H above Date



Application for registration as a general postal voter for federal elections and special postal voter for Queensland state elections



Who can register as a general postal voter?

Federal elections: You are eligible to register as a general postal voter if you are already enrolled and can satisfy one of the options listed at item 7.

Queensland state elections: You are eligible to be a special postal voter if you are already enrolled and can satisfy either A, E, F, G, H, I or J of the options listed at item 7.

Persons unable to sign

If you are unable to sign your name or vote in the ordinary way, you can register as a general postal voter for federal elections and as a special postal voter for state elections, using this form.

General postal voting at federal elections

Electors who are registered as general postal voters will be sent ballot papers as soon as practicable after the declaration of nominations for a federal election, or the issue of writs for a federal referendum.

Special postal voting at Queensland state elections

Electors in Queensland who complete this form and satisfy either A, E, F, G, H, I or J of the options listed at item 7 will be sent ballot papers as soon as practicable after the close of nominations for a Queensland state electoral event or the issue of writs for a referendum.

Access to information

The Commonwealth register of general postal voters, listing the names and addresses of people registered, is available for public inspection in divisional offices during normal office hours.

Further information

If you have any queries, please contact:

- the Australian Electoral Commission on **13 23 26**
or visit the website at www.aec.gov.au
or
- the Electoral Commission of Queensland on **1300 881 665**
or visit the website at www.ecq.qld.gov.au

Notification

You will be notified in writing by the Australian Electoral Commission of the result of your application.

Post or fax your application to:

Australian Electoral Commission
Reply Paid 9867
BRISBANE QLD 4001
(no stamp is needed if posted in Australia)

Fax No. **(07) 3832 3058**



Authorisation to collect the information on this form is contained in the *Commonwealth Electoral Act 1918* and the *Queensland Electoral Act 1992*

