



# ***STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE***

**Members present:**

Mr CG Whiting MP Chair  
Mr TL Mander MP (virtual)  
Mr JR Martin MP  
Mr JJ McDonald MP (virtual)  
Mr TJ Smith MP (virtual)

**Staff present:**

Ms R Easten—Committee Secretary  
Mr B Smith—Assistant Committee Secretary

## **PUBLIC BRIEFING—INQUIRY INTO THE LOCAL GOVERNMENT ELECTORAL AND OTHER LEGISLATION (EXPENDITURE CAPS) AMENDMENT BILL 2022**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 14 DECEMBER 2022**

**Brisbane**

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### **The committee met at 11.02 am.**

**CHAIR:** Good morning. I declare open this public briefing for the committee's inquiry into the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022. My name is Chris Whiting; I am the member for Bancroft and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past, present and emerging. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share. Joining me today are: Jim McDonald, the member for Lockyer and deputy chair, who is appearing via teleconference; James Martin, the member for Stretton, who is substituting for Jim Madden, the member for Ipswich; Tim Mander, the member for Everton, who is substituting for Michael Hart, the member for Burleigh, and is also appearing via teleconference; and Tom Smith, the member for Bundaberg, who is appearing via teleconference. Robbie Katter, the member for Traeger, may be joining us via teleconference.

This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the briefing at the discretion of the committee and the chair. I remind committee members that departmental officers are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I would ask people to turn their mobile phones off or to silent mode, and if you are on teleconference put yourself on mute if you are not talking. I now welcome representatives from the Department of State Development, Infrastructure, Local Government and Planning.

**BARTHET, Ms Catherine, Acting Manager, Legislation, Department of State Development, Infrastructure, Local Government and Planning**

**BLAGOEV, Ms Bronwyn, Executive Director, Strategy and Service Delivery, Department of State Development, Infrastructure, Local Government and Planning**

**WATTS, Mr Jordan, Director, Policy and Legislation, Department of State Development, Infrastructure, Local Government and Planning**

**Ms Blagoev:** I thank the committee for the opportunity to brief you today on the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022. By way of background, on 15 September 2020 the previous parliament's Economic and Governance Committee tabled its report on its inquiry into the feasibility of introducing expenditure caps for Queensland local government elections. The committee report made seven recommendations, including that a local government electoral expenditure cap scheme be established. The Queensland government tabled its response to the committee's recommendation in the Legislative Assembly on 27 November 2020. Government supported the seven recommendations in principle, subject to further analysis and consultation being undertaken on the scheme.

As a result, the department released a discussion paper for public consultation from 19 April to 27 May 2022. The discussion paper was provided directly to all Queensland local governments—so mayors and councillors—the Local Government Association of Queensland and Local Government Managers Australia. Feedback received as part of that discussion paper process indicated that stakeholders were generally supportive of the proposed scheme for local governments.

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The bill will establish the scheme, which will apply at the 2024 local government quadrennial elections. The bill will apply to all electoral participants. That includes councillor and mayoral candidates, groups of candidates, political parties and third parties. The proposed scheme was modelled on the state electoral caps scheme that is already in place under the Electoral Act 1992. Other than the actual amount of the caps, the proposed scheme contained in the bill is largely consistent with key features of the state scheme.

One of the key differences from the state scheme is that the proposed caps for mayors and councillors are grouped into tiers, which recognises the different shapes and sizes of Queensland local governments. The scheme needs to apply to a council like Croydon Shire Council, which has 167 enrolled voters, as well as Brisbane City Council, with 788,000 enrolled voters.

The bill contains a definition of ‘capped expenditure period’ that is also modelled on the state scheme. This means that for quadrennial elections the capped expenditure period commences approximately seven months prior to polling day.

The cap for mayoral candidates varies depending on the number of electors in a local government area; however, for Brisbane City Council the cap is a fixed \$1.3 million for mayoral candidates. Outside Brisbane City Council the band begins at a \$30,000 cap for areas with 30,000 or fewer electors, so candidates running for mayor in councils such as Balonne Shire Council and Douglas Shire Council can spend up to \$30,000. The highest band outside Brisbane applies to areas with more than 200,000 electors, allowing a cap of \$175,000 plus an additional 25 cents per elector over that 200,000 mark, so mayoral candidates at Sunshine Coast Regional Council, Moreton Bay Regional Council and Gold Coast City council will have indicative caps ranging from approximately \$182,000 to \$221,000.

For councillor candidates there are four bands. Outside Brisbane City Council these bands range from a \$15,000 cap for areas or divisions with 20,000 electors or less—such as Goondiwindi Regional Council and Gympie Regional Council—up to a maximum cap of \$30,000 for areas or divisions with 40,000 electors or more such as Toowoomba Regional Council. For Brisbane City Council the cap is \$55,000 per division.

We have prepared a short document which contains the mayoral and councillor expenditure caps and some indicative tables of what the caps would be for each of Queensland’s 77 councils. We thought that might be handy. I am happy to present that through the committee for tabling.

**CHAIR:** For those members on the line, we have a document with all of the indicative electoral expenditure caps. It looks straightforward. Are you all happy for that to be tabled?

**Mr McDONALD:** Just for clarification, is that document for all councils?

**CHAIR:** Every single one in Queensland.

**Mr McDONALD:** Okay.

**CHAIR:** It is quite extensive.

**Ms Blagoev:** Groups of candidates and political parties can pool the individual caps of all candidates in that group or political party within a single local government area. This ensures that groups of candidates and registered political parties are subject to electoral expenditure caps but are also able to run coordinated group or political party campaign activities such as shared how-to-vote cards and joint advertising.

In relation to third parties, the bill provides that the cap for an unregistered third party is \$6,000; however, the cap for registered third parties is equivalent to the mayoral cap for that particular local government area. The cap for registered third parties cannot be pooled across different local government areas.

Under the bill, all caps will be indexed in line with CPI. That will occur 30 days after the polling day for a quadrennial election. Additionally, prior to an election the Electoral Commission will determine and publish updated elector numbers for each relevant local government area and division and the corresponding cap that will apply. This will ensure there is clarity well before an election about how much can be spent.

Compliance and enforcement provisions generally align with those in the state electoral expenditure cap scheme and existing offences under the Local Government Electoral Act 2011; however, some offences were prescribed as disqualifying offences under the local government

**CHAIR:** Can I start by congratulating the department on the extent of work that has gone into this bill. It is quite substantial. Congratulations on getting this done after many years. It is quite dense and extensive. Obviously there has been a high level of extended consultation to arrive at this point.

Can you describe how extensive and detailed that consultation has been and perhaps give an example of where things have been changed after taking into account the feedback you received from stakeholders?

**Ms Blagoev:** As you said, there has been comprehensive consultation throughout the development of the scheme. It probably dates back to December 2019, when the previous parliament's Economic and Governance Committee invited written submissions to its inquiry and published an issues paper which included a comparative summary of the expenditure cap models in other jurisdictions and the key issues for consideration. That was in December 2019. As part of that process, 11 submissions were received from stakeholders including the Electoral Commission, the LGAQ, the Law Society, the Queensland Human Rights Commission and obviously a number of councils and resident groups. The committee also conducted a public hearing for the Integrity Act in January 2020 which also touched on this issue. Representatives of the LGAQ and four resident and community organisations were present and witnesses at the April 2020 public hearing, with the LGAQ at the time noting its historical and continued advocacy for any expenditure cap scheme.

The department has consulted directly with ECQ throughout the development of the scheme and obviously the bill. As I said, the department did release a discussion paper earlier this year. We received 22 submissions as part of that. In terms of the 22 submissions, we received submissions from 11 councillors, three councils—we had two Brisbane City Council submissions—and five organisational advocacy groups, including the Local Government Association of Queensland and the Electoral Commission of Queensland. The department has also then continued to engage with the sector such as ECQ and the LGAQ during drafting of the bill.

Chair, in relation to your question around what changes occurred, we made two changes from the position that existed in the discussion paper phase to what you see now in the bill. The first change was that third-party expenditure caps could not be pooled across local government areas and are to be 100 per cent of the mayoral cap. The second change was that the proposed caps for Brisbane City Council were increased as a result of feedback from the discussion paper. They are the two changes that were made. There have obviously been some drafting issues as we have gone through with drafting of such a large bill, but they are the two policy changes. We think that as a result of, really, what has been two years of consultation we have a pretty sound understanding now of concerns from stakeholders and that the bill represents a good outcome for the stakeholders.

**CHAIR:** Excellent. Thank you. One of the things the sector would probably be asking about is making sure those councillor newsletters that are issued by the local council are not caught up with this potential cap. My understanding is that they will not be because, firstly, they do not propose a way to vote or advocate any of that and, secondly, that would be caught up by the review processes within the council when those councillor newsletters are published. Can we outline exactly how those regular councillor newsletters that are issued will not be caught up with this cap and that timing?

**Ms Blagoev:** The bill aligns a definition of 'electoral expenditure' between the bill and the state Electoral Act and refers to what is a campaign purpose. It will be a matter for ECQ. ECQ will be the ones who ensure compliance with the scheme, so they will be responsible for determining what is a campaign purpose. As you have said, the issue of newsletter has been rather contentious from stakeholders, and we will certainly be working with ECQ to make sure there is clarity beforehand around what amounts to a campaign purpose versus just general information sharing.

**Mr McDONALD:** Thank you very much, Bronwyn and team, for being here today. I really appreciate it and I certainly appreciate all the work that has gone into the preparation of the bill. My first couple of questions are about the consultation issue that you talked about. Are all of the recommendations from the Economics and Governance Committee report covered in this new bill? If not, what is not in the bill?

**Ms Blagoev:** Yes, I believe they are covered. Jordan, did you want to add to that?

**Mr Watts:** Ms Blagoev is correct that the bill does address all of the recommendations. I make the point that recommendation 7 relates to education and training, so there is still a continuing body of work for the department to do there with the Electoral Commission.

**Mr McDONALD:** In relation to the discussion paper that you put out, how many submissions were made to the consultation and how many of those were councils?

**Ms Blagoev:** As a result of that discussion paper we received 22 submissions. Three responses were from councils and 11 were from individual councillors.

**Mr McDONALD:** Ms Blagoev, does the bill change the optional preferential voting system for local government to compulsory preferential voting for councils under 200,000 electors?

**Ms Blagoev:** No, it does not seek to change that.

**Mr McDONALD:** Does the bill change the optional preferential voting system for local government to compulsory preferential voting for councils over 200,000?

**Ms Blagoev:** No.

**Mr McDONALD:** Following on from what the chair was asking with regard to councillors' newsletters and what have you, if there is a natural disaster mid election period, which we have seen happen before, and a current serving councillor wishes to disseminate information about the disaster, how will that be managed with reference to their caps?

**Ms Blagoev:** You need to determine what is electoral expenditure and what is something prepared for a campaign purpose versus the normal BAU for a council. The scheme is not intending to capture BAU activities. We understand the councillors release newsletters and certainly, as you have indicated, if there is a natural disaster that occurs in the expenditure period, we would expect that council would continue to communicate with their communities. It really comes down to what is campaign purpose. Councils need to be very careful that anything they do release during that period is not with a campaign purpose, because if it is then it will be captured.

**Mr McDONALD:** That would be a matter for the ECQ to determine quickly?

**Ms Blagoev:** Correct.

**Mr McDONALD:** With regard to areas of population growth, it appears that ECQ are going to set the caps for elections well before the election period, certainly possibly before the closure of rolls. Have there been any concerns raised, or has the department thought about rapidly growing population areas and how they could be managed?

**Ms Blagoev:** It is a good question. The ECQ will set the caps based on elector numbers as at the relevant date, which will be 1 July before an election. Whilst we appreciate that that is a good nine months before an election, I think it is still a good indication of where the caps should sit; that is, they are not setting the elector numbers five years before an election, for example.

**Mr McDONALD:** With regard to rapidly growing areas, I have a concern about different markets. I am thinking of Mackay and you raised Toowoomba. Sorry, Chair, am I supposed to declare that my brother is the deputy mayor of Toowoomba?

**CHAIR:** Yes, that is probably a good idea—and you have just done that.

**Mr McDONALD:** I will declare that my brother is the deputy mayor of Toowoomba. In terms of different markets, like Mackay and Toowoomba, which you mentioned before—they are large undivided council areas that could have, say, 16 media markets if you look at all the different local newspapers and what have you—did the department give some consideration to those big council areas like that?

**Ms Blagoev:** We did, because that does impact, obviously, on how much it costs to market yourself as a candidate. It is probably worthwhile saying that the level of the caps was calculated after reviewing a number of factors. The former department of local government, racing and multicultural affairs released some indicative caps around March 2019. The LGAQ then proposed its own model in its submission to the commission inquiry. The feeling at the time from the community was that the correct level of cap probably sits somewhere in between those two models. We also looked at expenditure cap models that other jurisdictions had in place. We then ran the models against how much the successful candidate spent at the 2020 local government election—to see who fell under, who fell over, where it sat, how many groups and councils may have fallen over that—to again guide whether or not it is a reasonable proposal. Then finally it went through the discussion paper phase in terms of the quantity of the caps. It has gone through quite a process to get to this point in terms of the amount of caps.

**Mr SMITH:** Thank you all for being here. The caps come in during the election period. For confirmation, that is from the closure of nominations; is that correct?

**Ms Blagoev:** The expenditure period will begin approximately seven months before an election. The bill refers to the first business day after the last Saturday in August, so it is approximately seven months that that capped period will apply.

**Mr SMITH:** In terms of people who may not become official candidates until later, how would ECQ monitor people who are not already sitting councillors—intending to be candidates who have not made an official nomination? For instance, can someone run a campaign or send out material for months and then at the last moment decide that they will not be a candidate because they have overspent? How are we determining who is a candidate or not?

**Ms Blagoev:** The period runs seven months prior. That ensures consistency with the state scheme. The thinking is that that is a reasonable period to intend to capture that expenditure. The bill also makes provision to ensure candidates cannot stockpile beforehand. There are quite a number of provisions which talk about when expenditure is incurred and making sure that, for example, someone cannot go out and spend \$300,000 in getting signs printed beforehand, stockpile them in their garage and then whip them out once they are a candidate. The scope of the bill is not so much about who is a candidate but more about ensuring that anyone proposing to be a candidate in due course has not overspent.

**Mr SMITH:** I know that some councillors have discretionary funds under their councils and their use of materials and so forth. I imagine that is similar to the state in terms of a communication allowance where they cannot ask or solicit for votes in that material; is that correct?

**Ms Blagoev:** Yes. Their discretionary funds are separate under the Local Government Act and cannot be used for campaign purposes. Certainly the issue around newsletters has really been a contentious one, so that is something we will be working on closely with ECQ, to make sure we have information out there so that it is very clear about what can and cannot be done.

**Mr SMITH:** That leads onto my next question, and the member for Lockyer touched on it as well. Some councils have their own media entities and do their own newspapers, for lack of a better term, or they run social media accounts and so forth. Would there be an expectation on the council, as an entity, to effectively have a blackout period between close of nominations and the actual election date around not having councillors in publications or social media during that phase? Was that considered at all during the process in terms of a form of a blackout?

**Ms Blagoev:** No, that is outside the scope of the bill. The bill is really just about: if you are expending money, is it electoral expenditure within that definition and when is it incurred?

**Mr SMITH:** Absolutely. I have a very quick follow-up on that around expenditure. In terms of the purposes of a campaign, we have all seen where maybe some candidates are gifted trucks or vehicles and they put signage up. Formerly in the state the only expenditure went towards the sign but did not apply to the vehicle. Under this legislation, if the candidate was gifted or loaned a vehicle by a third party, would any expenditure on that vehicle now count under this legislation or would it only apply to the actual signage?

**Ms Blagoev:** Section 109A of the bill does talk about what is electoral expenditure and does provide a number of examples. It talks about printing or advertising, postage, consultants. Subsection (4) also talks about what is not expenditure and it does deal with that issue, that expenditure is not factual advertising about a matter that relates mainly to the administration of a political party and expenditure on employing staff for a campaign purpose. I do not think—and Catherine or Jordan can correct me if I am wrong—it goes to the extent of a vehicle and how a vehicle would be handled. It is important to realise that the bill also talks around what is a gift and provides a definition around a gift, and I will just pull that up. It states—

A gift made by a person to another person is the disposition of property, or provision of a service, by the person to the other person, for no consideration or inadequate consideration.

Again, it gives some examples of what is a gift. It talks about what is not a gift and it does actually talk about—sorry—that a gift does not include the provision of voluntary labour and the incidental or ancillary use of a volunteer's vehicle or equipment or a vehicle or equipment that is ordinarily available for the personal use of a volunteer. I think the key there is the 'incidental or ancillary' use of a vehicle versus actually probably gifting a whole vehicle. In the definitions in 109A and 107 the bill does go through in quite a bit of detail the concepts of what is a gift, what is electoral expenditure and what is a campaign purpose.

**Mr MANDER:** The April discussion paper posed a question about whether there should be a statutory review included in the bill. It seemed like a good idea, but I cannot find that anywhere in the bill. Is that true and why was that not included?

**Ms Blagoev:** It is not in the bill. I guess what I would say is that we regularly review all of our legislation, and in particular I am conscious that the 2024 local government election will be the first time that this scheme is rolled out. As a result of that, I would expect that we will be very closely monitoring how the scheme works and the ECQ will be an integral partner in informing our views around that as well. They will be able to see on the ground the types of questions they are getting from councillors. We will be able to see if there were any compliance issues. I think that is very important. We will be able to see who went over the cap and who did not go over the cap. I think us looking at how this pans out with the 2024 election will be crucial, but your point is a good one in that there is no mandated statutory review of the scheme in the bill.

**Mr MANDER:** Finally, I have a question with regard to the pooling requirements or pooling ability of candidates. Was there any discussion or any consideration of anyone who might be trying to game that system, if you like? If there were seven or eight candidates who were pooling and then subsequently it was found that three or four of those candidates spent no money at all individually—they might be ghost candidates—was there any consideration of that issue of somebody trying to game the system?

**Ms Blagoev:** Yes, there absolutely was. It was a really key point that we did consider, and we did get feedback through the discussion paper process about what we called the flooding concern. If you have a council where there are four councillors and a mayoral position vacant and a group is formed and the group has 20 candidates and they seek to pool those caps for the 20 candidates, obviously that gives rise to a perverse outcome. The way the bill is structured is that if there is a group they can only have a cap up to, say, the four candidates plus the mayoral cap. That prevents groups having candidates running dead, so to speak.

**CHAIR:** Member for Everton, there is a lot of nodding here and obviously this is part of the discussions that seem to have gone on about that.

**Mr MANDER:** That is it. I am happy. Thank you.

**CHAIR:** Thanks, member for Everton. I appreciate that.

**Mr MARTIN:** Are there any major differences between the state government legislation and this local government legislation? I understand that the bill seems to align the local and state government expenditure caps, but are there any sort of critical differences?

**Ms Blagoev:** As we have said, we are practical; the expenditure cap scheme does align with the state scheme. In terms of the differences, the main difference is the tiered approach in the scheme. That is really based on the fact that councils vary so much in size. Having to come up with a scheme where Croydon is dealt with as well as Brisbane City Council has been the real challenge for us.

The approach to expenditure caps for endorsed candidates and registered political parties is also different between the two schemes. Under the state scheme, there are separate caps for the political party and then for the endorsed candidate. There is also a different capped amount for endorsed and independent candidates in a general election. Political parties have a general cap of an amount multiplied by the number of electoral districts in which the party has an endorsed candidate, whereas under the local government scheme the vast majority of local government elections are not contested on party political lines.

We can in the local government system also form groups, so that is a difference. Under the proposed scheme, groups and registered political parties have a single cap which is based on those poolings of caps. As I said before, with four councillors plus a mayor, you combine that together and that is the overarching cap for the group. The cap for registered third parties also operates differently, with the cap for a registered third party in a quadrennial local government election being the amount of the mayoral cap. To answer your question, member, it is really the tiering that differs between them and the reason we have had to do that is having such a large scheme that deals with so many different councils plus the concept of the groups.

**Mr MARTIN:** Understood. I have one further question going back to this issue of newsletters and whether or not something is election material. I have heard the questions and heard what you said in that the ECQ will have to look and decide whether or not something is election material, but are the rules the same for candidates and for sitting councillors? If a candidate within the seven-month period sends out some material like a calendar that does not say 'Vote for me' but is a calendar, is that election material?

**Ms Blagoev:** It is the same rule irrespective of whether or not you are a candidate. If there is expenditure incurred in that electoral expenditure period then it is the same irrespective, and the question will always be: if you are in that period and you have incurred electoral expenditure, is it for a campaign purpose? I appreciate that it is probably a little bit more contentious with sitting councillors because they are often in the process of, like you said, sending out a calendar or sending out a newsletter, but to answer your question it is the same.

**Mr MARTIN:** Thank you.

**Mr McDONALD:** I have a couple of further questions. My first one is just simply about the policy intent, Bronwyn, regarding the consistency between local government and state electoral expenditure cap definitions. Are they similar or exactly the same?

**Ms Blagoev:** It is identical.

**CHAIR:** So that is a yes, Jim; they are identical.

**Mr McDONALD:** They are exactly the same? It is very good to see that consistency. With regard to the issue of expenditure and what falls into it, I refer to volunteering and how you resolve between people volunteering and professional people. Let us say a professional person such as an accountant or a barrister was volunteering as a campaign manager or treasurer or what have you. Who determines whether that would be considered a gift under the legislation or how would that be differentiated to be volunteering?

**Ms Blagoev:** The definition of 'gift' was aligned to what is in the state Electoral Act and it specifically says that a gift does not include the provision of voluntary labour. Irrespective of who is providing that voluntary labour, if it is a gift and it is voluntary labour then it will be excluded.

**Mr McDONALD:** Right; that is good. With regard to pooling, just following on from the member for Everton's questions earlier, the expenditure taken to have been incurred by an individual immediately after the individual candidate leaves a group becomes zero, so could a candidate join a group for the first three months of an election period and then leave the group and restart their cap at zero?

**Ms Blagoev:** Whilst their expenditure might restart at zero, their cap will come down in accordance with the formula in the bill, so it is not like they can expend all of this money as part of a group and then walk out and restart their cap at the full amount. The capped amount does come down. We recognise that the issue of people coming in and out of groups was one of the most difficult drafting exercises that we had, because we had to account for all of those possibilities. If it would assist, we can provide at a later point some scenarios which talk about this exact issue. That might be of use to the committee. If you would like us to provide that, we can certainly send that through to the committee secretariat.

**CHAIR:** That would be fine. I do not think we need a resolution for that, but if you could pass that on that would certainly assist us.

**Ms Blagoev:** Yes. It is very complex from a drafting perspective.

**Mr McDONALD:** Excellent. Just getting back to the question about newsletters, I gave the example before about a natural disaster. When you have consistent newsletters by councillors occurring as part of their ongoing communication with the electorate, the ECQ in the past have determined those newsletters to be considered campaign material. Has the department thought about including something in the act to specify that, because there is a large concern that the ECQ will consider those sorts of things campaign material?

**Ms Blagoev:** To answer your question, no, the bill does not seek to specifically carve anything like that out. Again, we would be relying on the definitions of 'electoral expenditure' and 'campaign purpose'. At the moment, the answer to that is that the bill does not carve it out, but I do take your point. It is contentious and it can be difficult sometimes to determine what is a campaign purpose.

**Mr McDONALD:** For sure.

**Mr Watts:** I might add to that, if I may. In the event further clarity is required, the bill does allow for a regulation to be made. In that regulation we can prescribe what is or is not electoral expenditure. There is some flexibility. At a later date, if we are seeing certain issues and we are working with ECQ, government might have an opportunity to tighten up the legislation, so to speak, by prescribing those activities.

**CHAIR:** That is a good outcome, Jim.

**Mr McDONALD:** Absolutely; that is very sound. Thank you very much again for the work you have done on this. I am sorry that I am not there in person but, as you can imagine, we have had a few things going on in the last few days. There is quite complex provisions in the bill. I have spoken to you before, Ms Blagoev, about whether this is another set of difficult things for prospective councillors and mayors to negotiate and whether this may be another disincentive for potential candidates as councillors and mayors to participate in local government. Has the department been turning its mind to that and making it as simple as possible?

**Ms Blagoev:** We have been attempting to make it as simple as possible. I am conscious that we have married up with the state Electoral Act as much as possible. One thing to keep in mind with the caps is that we actually find that a fair proportion of councillors, particularly councillors in smaller areas, do not spend anything on their campaign. It would be the larger councils that would encounter the trickier situation where they are dealing with registered political parties, groups or third parties. Definitely, we are conscious of the complexity of this. We have certainly encountered it ourselves.



We are constantly thinking, ‘How do we make this as simple as possible?’ That has been the nature of many of the conversations we have had with ECQ and will continue to have. Definitely, in terms of some of the provisions such as the comings and goings of people out of groups, certain decisions were made about the simplest way for this to work. It has been a constant thought we have had around the complexity of the scheme and what councillors will need to deal with.

**Mr McDONALD:** I might just turn to the question of dominance in terms of third parties and electoral expenditure. If the dominant purpose for which the expenditure is incurred is a campaign purpose—dominant being the key issue—what counts as dominant?

**Ms Blagoev:** I guess ultimately that is another—

**Mr McDONALD:** What if a printing company spent 50 per cent and the other campaign material at 50 per cent is office supplies? Who is going to determine that and who is going to resolve that? Will that just fall back to ECQ? Can we cover some regulation again or give some clarity?

**Ms Blagoev:** It will be a matter for ECQ. As you have said, the legislation talks about expenditure and whether or not it is for a campaign purpose and, in terms of third parties, whether or not it is for a dominant purpose of campaign purposes. The response to your question really is that it will be a decision for ECQ. We would be looking at fact sheets that are very operational, factual and give lots of examples for councillors. Another thing to keep in mind is that, in my experience, ECQ is very approachable in terms of answering questions and would be available to assist in whatever capacity—obviously, as would the department—as people are starting to turn their minds to what sorts of things they might like to spend their money on.

**Mr McDONALD:** It is appropriate that you impose some liability on members of an executive committee responsible for the management of campaigns and what have you, but how are those matters going to be investigated—which executive members knew what and whether it was a campaign committee? How is the department going to give clarity around that?

**Ms Blagoev:** They are all evidentiary questions that ECQ would need to consider as particular circumstances come up. As the department is not the compliance agency, it is probably not something I can provide further commentary on. Maybe it is something that could be explored directly with ECQ in due course. It is a good question.

**Mr McDONALD:** As I said, I think there are a number of quite complicated things there. That goes back to my question earlier about ensuring prospective councillors and mayors are not turned away.

**CHAIR:** We might talk about getting ECQ in when we have our briefings in January or February.

**Mr McDONALD:** That is a great idea.

**Ms Blagoev:** A question was asked earlier around the definition of ‘electoral expenditure’ and consistency with the state scheme and I indicated that the definitions were the same. Probably the only thing I would say, out of an abundance of caution, is that there are a couple of drafting changes to reflect the fact that it is councillors and not members of parliament. Certainly, the Electoral Act applies only to elected members of parliament. Certain references have been replaced with appropriate wording for local government councillors instead, and we have referred to things such as allowances or entitlements under a councillors expenses reimbursement policy. Our bill also provides for the meaning of an amount of electoral expenditure that is inclusive of GST, and that does differ. That follows a recent 2020 Supreme Court decision around that particular issue. There has probably been a bit of updating to reflect that fact that we are now looking at this and then the obvious replacement of concepts around councillors versus MPs.

**Mr SMITH:** When we talked about the pooling of funds and the groups, you said that if there is a mayoral vacancy and there is a group of four then they get their own individual cap plus the mayoral cap. Is that only for councils that elect their mayor via the ballot of councillors?

**Ms Blagoev:** All mayors are directly elected in Queensland. I guess that scenario was for a group. The cap is a collective cap, which means that they can have joint how-to-vote cards and joint advertising.

**Mr SMITH:** Obviously you are not going to have a group or a political party putting up multiple candidates for mayor, so how does that apply? I am not quite sure how that applies, because the individuals will get their own if they are running for a division or a place on council but then it is adding on the mayoral cap which, as you said, is effectively another election because it is a direct ballot.

**Ms Blagoev:** What we will often see in local government is that the group actually has a mayoral candidate and then the same group will run the councillor candidates. For example, Townsville City Council has a 'Team Jenny Hill', where Jenny Hill will run as the mayoral candidate and there will be councillor candidates who sit underneath that. The cap for the group will combine all of those caps up to the maximum number of positions in a council.

**Mr SMITH:** For clarity, if it is not an endorsed political party ticket, does that group need to demonstrate to the public that they are working as a group and pooling their money? Does this bill say that a group of individuals must declare on their paper or publicly that they are indeed working as a collective?

**Ms Blagoev:** Groups do need to be registered with the ECQ. That assists with that clarification so that people know, as you said, when people are acting as a group versus people who have consistent messaging but may not actually be a registered group.

**CHAIR:** I just point out that there has been a fair bit of investigation over the last 10 years into what actually constitutes a group. There is a set criteria that is pretty much established to determine if people are or are not.

**Mr McDONALD:** I am really looking forward to seeing what submissions we get on the bill. With regard to the requirements for broadcasters and publishers regarding returns, has the department considered that that requirement will be duplicative, given they have already to do returns, record the necessary expenditure and what have you?

**Ms Blagoev:** Those changes were made to bring the scheme into line with the state scheme. They are already in there. They were mirrored provisions.

**Mr McDONALD:** We will see what comes from all that. Thank you very much, Chair. Thanks all. Merry Christmas!

**CHAIR:** We have no further questions. That concludes this briefing. Thank you to everyone who has participated. We do not have any questions on notice, but the departmental representatives will send us some more information on scenarios they have built. Thank you to the committee and thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public briefing closed. Merry Christmas and thank you, everyone.

**The committee adjourned at 11.56 am.**