

Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022

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Committee Secretary
State Development and Regional Industries Committee
Parliament House
George Street
Brisbane Qld 4000

20th January 2023

Dear Committee Secretary,

The purpose of this submission is to provide general support for the Bill to establish an electoral expenditure caps scheme for local government elections and to provide additional considerations to specifically support and strengthen the objectives of the Bill.

Due to past experiences, with several election campaigns, I know and understand the need for greater transparency, accountability and disciplinary action for those who manipulate the existing processes.

The foundation for submitting this submission, and further considerations, is based on specifically addressing the key issues identified in the recent “Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government” report namely:

The CCC identified six key issues that have the potential to undermine public confidence in Queensland local government:

- *There is uneven competition between candidates in Queensland council elections, particularly with respect to campaign funding. This carries the potential for wealth to be seen to buy power and influence in local government.*
- *There is a distortion of the concept of an independent candidate, with many candidates using the independent label despite being closely affiliated with a political party or having other interests that may be seen to affect their independence in the eyes of voters.*
- *There is ambiguity about the nature of relationships between candidates, with some candidates engaging in cooperative campaigning and receiving funds from common sources but not registering as a group of candidates.*
- *The existence and nature of relationships between donors and candidates is being obscured by some candidates receiving campaign donations via third party entities. The transparency of financial relationships is also reduced by significant levels of non-compliance with disclosure requirements, and the lack of a best practice disclosure scheme.*
- *There are perceptions of compromised council processes and decision-making, especially where councillors have received campaign funding from donors involved in the property and construction industries. These perceptions are compounded by the failure of many councillors to adequately deal with their conflicts of interest.*

Without implementing further reforms, the trust in Governments on all levels by the community will continue to dwindle. All levels of Government need to work on improving transparency and accountability and build trust within our communities.

Points on Recommendations in the Bill: -

Recommendation 1: That the definition of electoral expenditure in the Local Government Electoral Act 2011 be aligned with the definition in the Electoral Act 1992, subject to further consultation with stakeholders on relevant inclusions and exclusions.

I support the change in the definition of electoral expenditure to align with the electoral Act 1992 including the further exclusions and inclusions.

I support a further inclusion, as my understanding from reading the Bill is costs incurred for a campaign office and campaign office staff is not included, that these costs are included as being able to have a campaign office and staff gives any candidate an advantage and should be noted for transparency as an election campaign expense.

Recommendation 2: That a sliding scale of electoral expenditure caps for Queensland local government elections be established with reference to the number of electors in the relevant ward/division or local government area and including differentiation for mayoral and councillor candidates and divided and undivided councils where appropriate.

Recommendation 3: That further analysis and consultation with stakeholders be undertaken to determine caps of appropriate magnitude, with reference to the models proposed by the Department of Local Government, Racing and Multicultural Affairs and the Local Government Association of Queensland.

Recommendation 4: That further analysis and consultation be undertaken to determine an appropriate cap for third party electoral expenditure, and a system of third party registration be established to support the monitoring and enforcement of third party compliance with the established cap.

Recommendation 2, 3 and 4 are regarding caps on campaign spending and I support the electoral expenditure caps for local Government to ensure suitable candidates are not prevented from running for office due to financial challenges. To assist some Candidates perhaps a Grant system could be implemented to assist with funding that would be required to be repaid over a set time. Such a system would give an alternative to receiving donations.

I support the reforms to promote transparency and accountability in recording of expenses incurred by associated third parties.

Recommendation 5: That electoral expenditure incurred by an associated entity for Queensland local government elections be treated as though it was incurred by the electoral participant with which the entity is associated.

I support the reforms to promote transparency and accountability in recording of expenses incurred by associated third parties.

I would support all political party donations to be banned from Local Government election except in the case of Brisbane City Council. If allowed then such donations or gifts should be required to be fully transparent immediately received at any stage of an incumbents or candidates' election campaign, including for incumbents throughout their term of office.

I do not support that if one candidate uses their expenses to support another candidate that the expense is solely on the initial candidate expenses. An example for clarity: - if a Mayoral candidate with a larger expense cap supports a councillor candidate but the expense is solely that of the Mayors, the councillor candidate has an unfair advantage. It should be recorded as a gift, with the expense amount, also against the Councillors records for transparency.

Recommendation 6: That scheme penalties and recovery provisions be aligned with those for the State government electoral expenditure cap scheme under the Electoral Act 1992, and further consultation be undertaken on the potential prescription of scheme offences as integrity offences.

The concern with having penalties is the lack of resources to investigate and follow up those candidates who do not abide by the legislative "rules".

I would like more resources given to ensure due process has been followed and greater transparency to the community on those candidates who did not keep to election caps etc, whether they are successful or unsuccessful at the election.

I support all loan details, including forgiven loans being disclosed.

The Bill mentions integrity offences disqualifying a person from being a councillor for four years or 7 years if a serious integrity offense.

If candidates or a group of candidates are reported or suspected of an integrity breach, for transparency to the community, these breaches need to be acted upon with an investigation and outcome recorded with haste, so the candidate doesn't continue to the election date or is removed as soon as the process allows after the election to avoid disruption to the community.

To ensure there is compliance action resources need to be available which require additional funding. To raise funds for the electoral Commission perhaps a percentage of larger donations could be levied to fund such operations.

Penalties need to be sufficient to deter wrongful actions therefore I support changes to penalties.

Recommendation 7: That the Department of Local Government, Racing and Multicultural Affairs coordinate with the Electoral Commission of Queensland to ensure election participants have access to a suite of informational resources and training to support their compliance with the established scheme.

The 2020 election saw a change in recording of campaign details and the web site was confusing when first using. An easier site to navigate would be beneficial however if I had a question, I always found the support on the phone was extremely helpful.

If such assistance is available via email or phone, candidates have sufficient resources though future training would always be beneficial.

The purposes of the LGEA outlined in section 3 are to: • ensure the transparent conduct of elections of councillors of Queensland’s local governments • ensure and reinforce integrity in Queensland’s local governments including, for example, by minimising the risk of corruption in relation to the election of councillors and the good governance of and by local government.

I fully support this intent and agree with the statement in the draft Bill :- *elections to be contested on a level playing field, where everyone is able to participate equally in the democratic process*.

Further reading of page 45 and group pooling funds to the extent of all group members expenditure cap, I also share concerns this may lead to a disadvantage to an individual “independent” candidate.

To be cautious, the benefit to all candidates should be proven (to show they are seriously running candidates) and not that candidates placed their names in a group simply to allow increased funding for the group.

This pooling of funds would need to be accountable and transparent to the community. This section also mentions registered political parties and I have previously stated I do not support political parties being involved in local government elections.

I note polling of third-party funding has been removed and I support this exclusion.

In summary

Many writers and scholars have debated the unequal distribution of money and wealth in society for centuries. There will always be some people and groups that have more wealth than others and during elections this becomes unfair and undemocratic. Operation Belcarra clearly identified how this unequal use of wealth can influence the outcome on the election process. Then post-election this influence has a more direct quid pro quo for a favourable outcome and have dire consequences for public decision making.

Any legislative changes proposed are limited by how well they are implemented. Awareness, education, access to resources and enforcement are essential otherwise changes proposed are weak, distorted, manipulated and ineffective.

Again, I would like to mention the need for resourcing as the draft Bill did not provide sufficient illumination of the inadequacy of resources required to provide real time

compliance of breaches and issues in the heat of an ongoing election campaign by the ECQ. A dedicated and more adequately resourced ECQ compliance team would provide for a significant improvement of existing and new provisions proposed for funding the local government electoral process. This team would be responsible for reviewing donations, conducting audits and investigations, and taking enforcement action, as necessary. It should be prescribed in legislation that this team publish a report on the ECQ website detailing the activities of this team.

As previously mentioned, one possibility is for a GST type of tax or levy of a percentage should be applied to all donations and gifts over a certain amount made during the election period and payable by candidates at the end of the election. This tax or levy would supplement funding of the ECQ compliance team. The compliance team would also be responsible for developing and implementing a financial monitoring and compliance program for local government elections.

To reduce external influences on local communities, unless otherwise stated in statute elsewhere there should be consideration given to introducing a total ban on donations or gifts from foreign entities. This would help to ensure that the voices of residents are heard and that candidates are not influenced by outside sources.

I acknowledge the work of the draft Bill and fully support the intent; I am however very mindful there will always be some that will try to “play the system” but the Bill is another step in the right direction to increase accountability.

I am grateful for the opportunity to make comment and suggestions on this process,

Yours sincerely,

Councillor Wendy Boglary

Redland City Council

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