




Speech By
Andrew Powell

MEMBER FOR GLASS HOUSE

Record of Proceedings, 10 May 2017

**LOCAL GOVERNMENT ELECTORAL (TRANSPARENCY AND
ACCOUNTABILITY IN LOCAL GOVERNMENT) AND OTHER LEGISLATION
AMENDMENT BILL**

 **Mr POWELL** (Glass House—LNP) (4.35 pm): I rise to speak to the Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill. The bill, as the Deputy Premier outlined, looks at changes to the Local Government Electoral Bill including donation and declaration thresholds, incorporated associations in campaigns and funding the ECQ, the Electoral Commission of Queensland, in relation to local government elections. The bill also looks at amendments to the Planning Act.

A series of recent court decisions, known as the Gerhardt decisions, have raised concerns about the relationship between the role of councils and private building certifiers. There have been particular concerns that planning provisions relating to character housing have been undermined by uncertainty in this area. The LNP is not convinced that what the government is proposing will sufficiently clarify these issues, but my colleague the shadow minister for planning, the member for Mansfield, will talk to these in more detail and outline the LNP's position on the planning and building changes in this bill.

The changes to the local government electoral law in this bill originated in a 2015 report by the Crime and Corruption Commission entitled *Transparency and accountability in local government*. A number of recommendations were made by the CCC and are addressed in this bill. At this stage I also want to put on the record my thanks to the members and staff of the Infrastructure, Planning and Natural Resources Committee for their consideration of the bill. I particularly want to acknowledge the new deputy chair, Ann Leahy, the member for Warrego, and our erstwhile deputy whip, the member for Gympie, Tony Perrett.

Like the LNP, the committee has identified a number of concerns and has recommended amendments be made by the Deputy Premier. I was listening carefully as the Deputy Premier provided her second reading speech. I note the comprehensive response she has provided to the committee's concerns. I would also like to spend some time detailing those concerns as they pertain to the local government aspect of the bill. I would like to start with incorporated associations.

As mentioned, the genesis of the investigation by the CCC was complaints made about the use of incorporated associations as a campaign or donation vehicle. The bill seeks to clarify that incorporated associations are prohibited from holding or receiving campaign funds for a local government election candidate. The bill also prohibits associations from using a name which would imply that it is an official entity of a council, such as using the title of 'mayor' in its name, unless of course it is owned by the council in question. These changes are supported by the LNP.

We do, however, have concerns that the government has not clarified how the prohibition on incorporated associations will affect entities incorporated in other jurisdictions—that is, interstate or indeed overseas. There is no guarantee that these laws would stop interstate organisations and unions from breaking the spirit of the laws. As the member for Warrego wrote in her statement of reservation in the committee's report—

The Minister should address what steps will be taken to ensure that incorporated associations outside Queensland are required to comply with the spirit of these amendments.

I would seek some response by the Deputy Premier to that concern.

I move to real-time disclosure. This bill also allows for the government to introduce real-time donation declarations for local government candidates, similar to the system introduced for state candidates. Just like the concerns raised by the member for Mansfield at the time with the state system, contemporaneous disclosure for local government candidates will presumably suffer from the same loophole—that is, with donations made in the last seven days of a campaign not being updated in real-time. Perhaps the Deputy Premier would like to give some consideration to that in her summing-up.

With regard to the donation reporting requirements contained in the bill, the bill seeks to align the donation reporting requirement for local government candidates with sitting councillors. The candidate and third-party election disclosure donation threshold is now set at \$500—from \$200 previously for candidates and \$1,000 for third parties—to align with the threshold for a councillor's register of interest gift disclosures under the existing act. This consistency in requirements between candidates, councillors and third parties is welcomed as it reduces confusion and decreases the chance of unintentionally incorrectly completing a return as a result of complex and confusing arrangements. I do note, however, the committee's recommendations 2 and 3. Recommendation 2 is that clauses 16 and 17 of the bill be amended to make it clear that candidates are required to lodge a return within the required period, irrespective of whether any gifts are received during the disclosure period. Recommendation 3 is that the same clauses, 16 and 17, be amended to specify that the Electoral Commission Queensland is required to provide the chief executive officer of the relevant government a copy of all returns for candidates who are successful in election in that local government area.

I listened carefully to the Deputy Premier's contribution and note that she will be moving an amendment to address recommendation 2. The LNP is certainly supportive of that. In response to recommendation 3, an amendment will not be moved due to a perceived or real administrative burden but also because a summary report is ultimately published on the ECQ website and therefore it is duplication. The LNP is willing to accept that as a response to that recommendation. We would have been supportive of an amendment to those clauses for that purpose, but in this instance we will accept the justification given by the Deputy Premier.

I move to self-funded candidates. During the committee's investigation, the LNP members of the committee raised significant concerns about the effect new provisions concerning unspent donations would have on self-funded candidates. The bill provides that donations received by local government candidates should do the following after the election they were raised for: be held in a special account for a future campaign; be returned to a political party if the candidate is a member of a party; or be donated to charity.

The LNP has serious concerns that self-funded local government candidates who are members of a political party but are not endorsed candidates would have to provide any unspent funds to a political party. During the committee hearing process LNP members confirmed with the CCC that this was not the effect of its recommendations, and in any case they are only supportive of this provision where it concerns endorsed party candidates. The CCC suggested that this provision may be an unintended consequence. I refer to the statement of reservation by the deputy chair, the member for Warrego, and, in particular, a quote by Ms Dianne McFarlane, the Executive Director, Corruption, Crime and Corruption Commission, who advised the committee of the following—

... the CCC is not aware of the genesis of the provision to allow candidates to provide unspent funds to a political party. It may be that the proposal may have unintended consequences which have not yet been considered. The CCC, however, considers that such a proposal may be appropriate where a candidate has been endorsed by a political party to contest the election.

During the committee's departmental briefing the member for Warrego questioned this part of the bill using a hypothetical scenario containing candidates who are members of a political party. The member for Warrego asked—

Does their membership of a political party impact at all on whether it—

being the campaign funds—

should go to a charity or whether it should go to a political party given that they are just a member and not endorsed?

The department's representative replied—

The provision in the bill says 'a member of a political party' ...

To clarify, the member for Warrego asked—

Even if they are not endorsed and they are just a member?

The response was—

That is what the bill says, yes.

It is now incumbent on the Deputy Premier to again clarify what the effect of this provision is and amend it if necessary. It would fundamentally change the nature of local government elections in this state if candidates who are just ordinary members of political parties are treated as if they are endorsed candidates. I do note the Deputy Premier said that a self-funding candidate has the potential to manage that campaign fund and end with a net zero, but I have concerns that a number of self-funded candidates may not be fully aware of the consequences of that and end up with funds in a self-funding campaign fund that they would then have to direct to a political party.

The CCC confirmed, as I have said before, that they did not intend for these changes to go this far. Related to this matter, I will also be awaiting the CCC's report into Operation Belcarra, which considered the nature of candidates running in local government elections as Independents while they may also be ordinary members of a political party. I am sure the commissioner will have a number of recommendations regarding this practice.

In the meantime, and returning to the legislation as written, it seems to overreach in its scope by referring to ordinary members of political parties instead of candidates endorsed and funded by political parties. A by-product of the LNP committee members' questioning is that the committee had also recommended in recommendation 4 that this bill be amended to allow entirely self-funded candidates to recover any unspent money from their dedicated campaign account at the end of the disclosure period. Those candidates who do self-fund—a practice very common, particularly in smaller councils—should be able to take their own money back at the end of the campaign if it is not used. I would at this stage again commend that recommendation to the Deputy Premier and ask her to give consideration, while this second reading debate is going on, to amending that clause to ensure that it applies only to endorsed candidates of a political party, not ordinary members of a political party.

I turn to the Electoral Commission of Queensland funding. The bill also provides for the Electoral Commission to be able to recover indirect costs from councils relating to the running of elections. The committee was advised that this is current practice and the bill is just seeking to clarify this. However, ambiguity remains over what the indirect costs will entail, whether there will be an effect of cross-subsidising other functions of the ECQ and how transparent the costs that councils will incur are. Stakeholders raised concerns that the ECQ should provide a fixed cost estimate rather than what recently occurred where local governments had to make a guesstimate on the costs of the election. I refer to page 10 of the committee's report which states—

Conversely, other submitters raised concerns about potential costs. For example Brisbane City Council raised concerns that the changes would 'expose local governments to unknown and unverifiable additional costs associated with conducting local government elections'. Similarly Sunshine Coast Council raised concerns that 'councils may be burdened with ECQ costs associated with elections outside specific council areas, including those for elections relating to other levels of government'.

Southern Downs Regional Council submitted that if the ECQ is given power to recover costs relating to conducting elections, the ECQ should be required to provide local governments with a 'full disclosure of all costs', and 'a fixed cost estimate' on the cost of the election.

Certainly such would help with council budgeting, especially for smaller regional and rural councils. The ECQ should be transparent in the costs it incurs for local government elections and confirm that local governments are not unfairly burdened by cross-subsidising other activities undertaken by the ECQ.

The Deputy Premier and Attorney-General should ensure this will be the case and councils will not be unfairly burdened. It will certainly be something that the LNP will be monitoring closely, particularly at the next local government election due in 2020. I await clarification of the LNP's issues with this bill from the Deputy Premier, particularly as they pertain to smaller councils and self-funded candidates. As I mentioned earlier, the member for Mansfield will have more to say on the planning and building changes in this bill. In conclusion, the LNP will not be opposing the changes being made in relation to the local government electoral law.