




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 1 May 2019

ELECTORAL AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (11.22 am): I present a bill for an act to amend the Acts Interpretation Act 1954, the Electoral Act 1992, the Parliament of Queensland Act 2001 and the Referendums Act 1997 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Electoral and Other Legislation Amendment Bill 2019 [\[668\]](#).

Tabled paper: Electoral and Other Legislation Amendment Bill 2019, explanatory notes [\[669\]](#).

I am pleased to introduce the Electoral and Other Legislation Amendment Bill 2019. This bill implements important reforms to improve the integrity, transparency and public accountability of the state's electoral system. Building on the Palaszczuk government's strong record of enhancing electoral integrity, transparency and accountability in Queensland, the bill aims to further strengthen public confidence in our electoral system as a key democratic institution. The bill also supports operational improvements to the electoral system, not only to allow the Electoral Commission Queensland, ECQ, to achieve efficiencies but also to improve aspects of the voter experience.

The bill makes necessary consequential amendments to the electoral and related legislation consistent with the adoption of four-year fixed terms for the Legislative Assembly of Queensland following the referendum in 2016. The bill will provide for increased consistency of the laws governing state and local government elections and referendums—our state electoral laws.

Following the Queensland local government elections on 19 March 2016, the Crime and Corruption Commission, CCC, received numerous complaints about the conduct of the candidates for the Gold Coast City Council, Moreton Bay Regional Council and Ipswich City Council. In response to these allegations the CCC initiated Operation Belcarra, which included an examination of practices that may give rise to actual or perceived corruption or otherwise undermine public confidence in the integrity of local government with a view to identifying strategies or reforms to help prevent or decrease corruption risks and increase public confidence. The inquiry was later expanded to include the Logan City Council.

The government supported, or supported in principle, all 31 recommendations contained in the resulting CCC report titled *Operation Belcarra: a blueprint for integrity and addressing corruption risk in local government*, known as the Belcarra report. The government implemented a first stage of reforms through the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018, which banned donations from property developers to key political actors including candidates, political parties and regulated third parties at both the local and state levels of government. I was pleased to see this legislation withstand the High Court challenge made by the former LNP president, Mr Spence, recently. This bill builds on this first stage of reforms by making further legislative amendments to implement the government's response to recommendations 6, 30 and 31 of the Belcarra report for state elections.

Pursuant to recommendation 31 of the Belcarra report, the ECQ will have its statutory functions expanded to include administering and promoting compliance with the election funding and financial disclosure provisions of the Electoral Act 1992 and corresponding provisions of the Local Government Electoral Act 2011. This recognises the critical role of the ECQ in monitoring and enforcing compliance with the election funding and financial disclosure requirements which are key to the integrity, transparency and accountability of the electoral system.

This measure will be complemented by the amendment of existing, and the introduction of new, offence and penalty provisions. These changes will improve consistency among our state electoral laws and will promote compliance. In particular, this bill creates an offence where a person knowingly publishes false information about gifts made to a candidate in an election, a registered political party or a third party, with a maximum penalty of 20 units, as well as increases the penalty applicable to third parties who knowingly lodge a false return about donations given to candidates from 50 penalty units to 100 penalty units. Further, the period over which funding and disclosure prosecutions can be brought will be increased from three years to four years from the commission of the offence, which is a further measure supporting compliance.

In accordance with recommendation 6 of the Belcarra report, a new obligation will be placed on an entity that makes a gift or loan to a registered political party or candidate of \$1,000 or more to notify a recipient of the true source of a gift or loan. This requirement also applies to an entity making a gift to third parties who incur expenditure for political purposes. This will prevent intermediaries being used to circumvent existing disclosure requirements, which play an important role in ensuring the transparency and accountability of Queensland's electoral system.

Recommendation 16(a) of the Belcarra report suggested an outright ban on political donations and loans in the seven days preceding an election day. This bill does not adopt that recommendation because of the operational implications it may have on entities participating in election activity. Instead, this bill would require all donations and loans made within seven days of polling day to be disclosed within 24 hours of them being made. This maintains a culture of accountability and transparency without prejudicing the legitimate activities of political parties and other stakeholders.

The Palaszczuk government strongly believes that sound electoral processes and maximising the participation of voters are vital to our democracy. The bill promotes these outcomes by facilitating procedures that allow the ECQ to conduct elections more efficiently and effectively, including by making the voting experience faster and easier for those who do participate.

A number of concerns were raised by voters following the referendum on four-year fixed parliamentary terms and local government elections jointly conducted on 19 March 2016. As a result, the government decided that it was desirable for an independent review to be undertaken into the conduct of the elections and referendum, as well as the Toowoomba South by-election held on 16 July 2016. An independent review panel, chaired by former Brisbane Lord Mayor Jim Soorley, undertook a review which resulted in its *Inquiry report: a review of the conduct of the 2016 local government elections, the referendum and the Toowoomba South by-election*, the Soorley report, which was tabled on 15 June 2017.

The Soorley report identified potential opportunities for operational improvements in the conduct of both elections and referendums, including improvements relating to technology, communication, the postal voting system and the roles and management of returning officers. The Soorley report included 74 recommendations. Many of these recommendations were operational matters for the ECQ to implement. Others require legislation to implement the government's response. Accordingly, the bill makes amendments to address recommendations 4, 41, 43 and 61 and a number of components of recommendation 74 of the report as they apply to state elections.

In particular, by implementing recommendation 4 of the Soorley report, the bill enables the ECQ rather than the Governor in Council to appoint returning officers and assistant returning officers for state elections. This is already permitted for returning officers for local government elections and is in line with other Australian jurisdictions. It is also compatible with the ECQ conducting transparent processes for the recruitment of returning officers and will avoid duplication.

As part of the Palaszczuk government's commitment to increasing transparency and accountability, this bill extends the time frame over which financial records are to be kept by the ECQ, candidates, parties and third parties in relation to electoral funding and expenditure from three years to five years. The bill makes changes to postal voting by requiring postal vote applications to be submitted to the ECQ by 7 pm on the Monday two weeks prior to polling day rather than the Wednesday before polling day. This is aimed at limiting the risk that postal ballot papers will not be received or being delayed in the postal system and thereby disenfranchising electors.

The bill will allow preliminary processing of declaration envelopes for postal votes received by the ECQ to commence before polling day. This will facilitate workloads for ECQ staff being better dispersed over the election period. Significantly, the bill will also enable absent voters who are not voting in their own electoral district to be marked off the electoral roll and cast an ordinary vote rather than a declaration vote. This will make absent voting faster and easier and provide efficiencies and saving costs for the ECQ.

Implementation of a number of other measures recommended by the independent panel in its report are facilitated by the bill. These include improved legislated procedures for replacement, lost or spoiled ballot papers and allowing polling locations to be notified on the ECQ website rather than the Gazette. In addition, candidates will be able to make nomination deposits by cash, cheque or electronic payment methods to minimise transaction costs and risks of fraud and achieve procedural efficiencies. The time frames for retention of election papers and financial records will also be adjusted and the requirement for ballot papers to be attached to a numbered butt will be removed because it increases costs for no security advantage.

After receiving approval of a majority of voters at the referendum on 19 March 2016, the Constitution (Fixed Term Parliament) Act 2015 introduced four-year fixed terms for the Legislative Assembly of Queensland. In order to align the Electoral Act 1992 and other relevant legislation with those legislative amendments which give effect to four-year fixed terms, a number of consequential amendments need to be made. A bill was previously introduced for this purpose but lapsed when the state election was called. To ensure that elections can be called in a manner consistent with the Constitution of Queensland 2001, the bill includes these consequential amendments. It also contains amendments so that the redistribution provisions and the disclosure periods that apply to candidates in an election reflect four-year terms.

In a related amendment, the bill provides for a discretion in the Speaker and the Governor to not fill a vacancy in the Legislative Assembly in the last three months before dissolution day for a four-year term. The inclusion of this amendment in the bill means that, under section 4A of the Constitution of Queensland 2001, the bill will need to be passed by an absolute majority in order to be presented to the Governor for assent.

The bill also allows prisoners who are serving a sentence of less than three years imprisonment to vote, consistent with the position in the Commonwealth Electoral Act 1918 following the High Court decision of *Roach v Electoral Commissioner*. Queensland is currently the only jurisdiction to not allow prisoners to vote and is not consistent with that High Court decision.

The bill provides for the online publication of returns consistent with ECQ practice. It will require the ECQ to publish and provide, upon request, particular information requested by political parties and independent members, complemented by appropriate safeguards to prevent misuse. It also makes a number of other minor amendments including to clarify that prescribed entities authorised to receive electoral roll information for prescribed purposes are empowered to use that information for that purpose and to ensure the safety of Queensland voters at polling booths by enabling suspension or adjournment of polling in particular circumstances.

I thank the CCC and the independent panel for their comprehensive reports and resulting recommendations. I also want to thank the hardworking members of the Department of Justice and Attorney-General for their efforts in putting this bill together. In conclusion, the bill will provide for important improvements to Queensland's electoral system which will provide a better voting experience for Queensland voters and promote increased confidence in the integrity, transparency and effectiveness of our electoral system. I commend the bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice) (11.33 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Legal Affairs and Community Safety Committee

Mr DEPUTY SPEAKER (Mr Kelly): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.