



Speech By  
**Hon. Yvette D'Ath**

**MEMBER FOR REDCLIFFE**

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Record of Proceedings, 15 October 2019

## **LOCAL GOVERNMENT ELECTORAL (IMPLEMENTING STAGE 2 OF BELCARRA) AND OTHER LEGISLATION AMENDMENT BILL**

### **ELECTORAL AND OTHER LEGISLATION AMENDMENT BILL**

#### **Second Reading (Cognate Debate)**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (3.43 pm): I move—

That the Electoral and Other Legislation Amendment Bill be now read a second time.

The Electoral and Other Legislation Amendment Bill 2019 was introduced on 1 May 2019 and referred to the Economics and Governance Committee. I thank the Economics and Governance Committee for its thorough consideration of the bill and welcome the committee's recommendation that the bill be passed. I would also like to thank the seven submitters who took the time to make submissions on the bill and who were generally supportive of the proposed amendments. I note the statement of reservation from the opposition members of the committee. I will address their issues in my contribution to today's debate on the bill.

The bill will give effect to a number of important reforms to improve the integrity and public accountability of the electoral system for state elections. It will also support operational improvements to aspects of the electoral process for voters and facilitate more efficient processes for the Electoral Commission of Queensland.

The bill also makes amendments to electoral and related legislation to ensure consistency with the adoption of four-year fixed terms for the Legislative Assembly of Queensland following the referendum on this issue held in 2016. It makes other improvements and provides further consistency in legislation governing state elections and referendums and local government elections.

In addition to the committee's recommendation that the bill be passed, the committee also raised two points that require clarification. I will address each of those matters in turn. I first draw the attention of members to page 16 of the committee's report, which looks at the amendment to section 125 of the Electoral Act 1992 to enable a preliminary processing of declaration envelopes to occur before or after polling day. The last paragraph on page 16 refers to recommendation 61 of the independent panel's report titled *A review of the conduct of the 2016 local government elections, the referendum and the Toowoomba South by-election*, which recommended that counting of the votes start prior to the close of polls on polling day. The committee has assumed that the procedures that will be made pursuant to section 130A of the Electoral Act will include the circumstances under which counting may commence prior to the close of polls.

I wish to clarify that those procedures will specify only the factors that the ECQ must consider before deciding whether to count absentee votes at the polling booth or instead send them back to the relevant returning officer to be counted in order to ensure that the secrecy of the vote is maintained.

The bill does not permit counting to commence before 6 pm on polling day and neither will the regulations. Ballot boxes will continue to remain sealed until 6 pm on polling day after which counting will commence.

To clarify and make it very clear to all parties when we talk about the procedures, this amendment allows the Electoral Commission to verify the declaration votes prior to the close of polls so that, when the polls close at 6 pm, the Electoral Commission can commence counting straightaway as opposed to what often occurs now—that the checking of the declaration votes, the absentee votes and postal votes is not done until after 6 pm, leading to often that not occurring until the day after the election. This amendment will speed up the process, allowing for that verification to occur early so that, come 6 pm, those votes can be counted.

Rather than implementing recommendation 61 of the independent panel's report, which would allow earlier counting, the bill contains a number of reforms that will allow a greater number of ballot papers to be included in the preliminary vote—and to be clear, the preliminary vote, as it is referred to, is the first count after the close of polls at 6 pm; it is not a count that occurs prior to 6 pm—such as allowing absentee voters to cast ordinary votes and allowing the preliminary processing of postal ballots. That will facilitate the election result being known sooner. These provisions are about allowing for the preliminary processing of postal votes and allowing absentee voters to cast ordinary votes to speed up that process to allow more votes to be counted on the evening of the election.

The second matter that I would like to address is in response to comments made in the non-government statement of reservation contained in the committee's report regarding the timing of the cut-off for applications for postal voting. The LNP questioned why the cut-off is 12 days before polling day instead of the 10 business days as recommended by the independent panel in its report. Firstly, let me say that the government supports this recommendation of the independent panel's report and that this bill effectively implements this recommendation. In most circumstances, 10 business days results in the same outcome as 12 days. Given that all elections must be held on a Saturday, the 12-day cut-off will ensure that postal vote applications need to be submitted by the second Monday before polling day even if there is a statewide or regional public holiday in those last 12 days.

With the move to four-year fixed terms, general elections will be held on the last Saturday in October. There are currently no public holidays at that time of year. However, by-elections, extraordinary general elections or referendums can be held at any time of the year and therefore may affect the cut-off deadline if they occur close to a public holiday. The 12-day deadline creates consistency.

I note from the non-government statement of reservation that LNP committee members do not support the amendments in the bill relating to prisoner voting. The bill proposes that a person serving a sentence of imprisonment of three years or longer is not entitled to vote. Despite the sensationalist commentary of some, this is just common sense. Queensland is the last jurisdiction in Australia to have a complete prohibition on prisoner voting. The bill aligns Queensland with the Commonwealth and other jurisdictions that provide for a level of imprisonment to disqualify a prisoner from voting. This will mean that individuals who are currently eligible to vote in federal elections will also be able to vote in state elections. Under the joint roll arrangements, there are operational advantages in aligning with the Commonwealth in this area.

Can I also put on the record that the prohibition that currently exists in the act was put in to align the state legislation with the Commonwealth laws. The Commonwealth laws were challenged in the High Court and found to be invalid. However, no Queensland parliament has ever gone back and rectified the state legislation to bring us back in line with the Commonwealth and the situation in other jurisdictions. Although legislation slightly differs in other jurisdictions, they all allow for some form of prisoner voting. The bill aligns Queensland with the Commonwealth and other jurisdictions that provide for a level of imprisonment to disqualify a prisoner from voting and, as I say, will allow operational advantages in aligning us with the Commonwealth in this area as the Electoral Commission Queensland uses the rolls of the Australian Electoral Commissioner as far as who is an eligible voter. It is logical to align with the Commonwealth.

I also want to clarify that during my introductory speech I stated that the bill contained amendments that would require all donations and loans made within seven days of polling day to be disclosed within 24 hours of them being made. I confirm that the bill does not contain these amendments. The timeframes for the provision of returns under the Electoral Act are currently prescribed by the Electoral Regulation 2013. As such, I propose to progress amendments to the regulation in the near future to provide a 24-hour period for disclosure on recipients of donations and loans in the final days of an election campaign.

The government proposes to move amendments to the bill during consideration in detail. Five of the proposed amendments will amend the Electoral Act so that the prescribed time for real time reporting can specify a time as well as a day by which returns must be provided to the ECQ. This will lay the path for the proposed regulatory amendment to enable 24-hour reporting in the last seven days before the election. Together, these reforms will improve the integrity of our elections in Queensland so that electors will be better informed about who is making donations to electoral participants and may be influencing those participants right up until electors cast their vote.

I will now turn to other amendments to be moved by the government during consideration in detail of the bill. Amendments will be moved to address two issues raised by the committee in its report. The first is to clarify that elector information under new section 133A of the Electoral Act, which is information about which polling booth voters used or whether they voted by post or electronic means, may be provided by the ECQ to political parties for the 2017 state general election onwards.

The second is to correct a minor inconsistency in the language used for the provisions dealing with temporary suspension of the polls to ensure they align with the language used in the adjournment provisions. This will ensure that the returning officer must form an opinion on certain factors before suspending or adjourning a poll. The government also proposes to move amendments to the provisions which require the ECQ to delete address information of silent electors before publishing them on their website. The amendments simply clarify that ECQ must delete this information if they are made aware that an individual in the return is a silent elector by the person making a return.

Further, amendments will also be moved so that published returns on the ECQ's website do not display the street address of any individual, just their town or suburb and their state or territory. I believe this strikes the right balance between the need to provide transparency of donations and the need to protect the privacy of individuals.

In conclusion, I would again like to thank the CCC and the independent panel for their reports and recommendations that provided the basis for this bill. I would also like to thank the hardworking members of the Department of Justice and Attorney-General for all their work on this bill. I also thank the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs, the member for Sandgate, for working cooperatively with myself and my department, and our departments working together, for the benefit of the people of Queensland in relation to these two bills.

Queenslanders expect and deserve an electoral system that they can have confidence in. The Palaszczuk government has a strong record of enhancing electoral integrity, transparency and accountability in Queensland. Continuing improvements to our electoral system will ensure we can continue to be confident in our democracy. I commend the bill to the House.