




Speech By
Hon. Dr Steven Miles
MEMBER FOR MURRUMBA

Record of Proceedings, 1 December 2020

COVID-19 EMERGENCY RESPONSE AND OTHER LEGISLATION AMENDMENT BILL

 **Hon. SJ MILES** (Murrumba—ALP) (Deputy Premier and Minister for State Development, Infrastructure, Local Government and Planning) (12.47 pm): I rise to speak in support of the COVID-19 Emergency Response and Other Legislation Amendment Bill 2020. My remarks today will mainly focus on the amendments relating to the local government portfolio and, in particular, those relating to mayoral and councillor vacancies.

Recent amendments in the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020 provided for a process under the Local Government Act 2009 for filling vacancies. The government made an election commitment to change the process for filling vacancies that arise during the first 12 months of a local government's term. This government monitors its reforms to ensure the policy outcomes sought are achieved. Where concerns are raised, this government hears those concerns. The amendments now proposed reflect our ongoing engagement with the local government sector and the broader community on these issues. I am pleased to inform the House that the LGAQ supports the amendments we are putting forward.

The proposed change will provide for mayoral vacancies in the first 12 months of the local government's term to be filled by a by-election rather than by appointing a runner-up. Where there is a vacancy in the office of a councillor within the first 12 months of a local government's term, whether in a divided or an undivided council, the council will determine by resolution whether the vacancy is to be filled by a by-election or by the appointment of a runner-up.

In the event that the council chooses the runner-up option, the process will continue to provide for a runner-up who consents and is eligible to be appointed—that is, a first runner-up may be approached and may decline or be ineligible, in which case the second runner-up may be approached and so on. If no runner-up is eligible and consents, the vacancy is to be filled by a by-election. No changes are proposed to the method for filling vacancies that arise during the middle or final parts of a local government's term, as provided for in the recent amendments.

The bill also provides for transitional arrangements in relation to actions taken, including any appointment of a runner-up to a vacant office in the period starting 12 October 2020 and ending immediately before commencement as a result of a vacancy that arose during that period and for how vacancies that arise during this period are to be filled. These provisions will operate retrospectively. If a local government appointed a runner-up to a vacant office during the relevant period, the office is taken to be vacant and the runner-up is taken never to have been appointed. However, the bill clarifies that the transitional provision does not affect any entitlement to remuneration or other benefits accrued or accruing to the runner-up during the appointment period.

The bill provides that if the office of a mayor or councillor became vacant during this period and either had not been filled before commencement or is taken to be vacant, the new provisions apply to filling the vacant office. The local government has two months from commencement to fill the vacant

office. In relation to the vacant office of a councillor, if the local government decides under the new provisions to appoint a runner-up to fill the vacancy the bill preserves any steps taken, which means they do not have to be repeated. For example, any notice provided by a local government to ECQ does not need to be repeated.

The bill also makes a minor amendment to the Local Government Electoral Act 2011 to clarify that the date fixed for a by-election must be within two months after the vacancy happens for consistency with the Local Government Act. The amendments are proposed to commence as soon as possible. Subject to passage and assent of the bill, the office of the Mayor of the Rockhampton Regional Council, which became vacant on the resignation of former councillor Margaret Strelow on 9 November 2020, will be filled by a by-election.

As members are aware, the office of the Division 10 Councillor for the Townsville City Council became vacant on the election of the member for Mundingburra, which was declared by the Electoral Commission of Queensland on 11 November 2020. Under these amendments, because this vacancy is the office of a councillor the council will have discretion to determine whether to appoint the runner-up or hold a by-election. These amendments are necessary to ensure that those communities governed by the council are represented by duly elected councillors or in line with a duly considered council resolution. They will benefit the community by providing, in many circumstances, for an additional opportunity for persons to nominate as candidates for election to the vacant office and for electors to vote for their preferred candidate in that by-election. A runner-up for the office of councillor, if not appointed by the council, may choose to nominate as a candidate in the by-election if they remain eligible to be a councillor.

There is a clear and compelling case to urgently address the legitimate concerns raised by the community in relation to filling these vacancies. As the Attorney-General informed the House when introducing the bill, a number of mayors and councillors have raised the possibility that a candidate who only achieved a small percentage of the vote could be appointed to a vacant position. For example, at the local government election held on 28 March 2020, former councillor Strelow won the office of the mayor with approximately 70 per cent of the votes. One other candidate also ran for the office of the mayor at the election and obtained approximately 30 per cent of the vote. The member for Mundingburra won office at the local government election as the Division 10 councillor for the Townsville City Council with approximately 64 per cent of the vote. Two other candidates also ran for Division 10 at the election, attracting approximately 18 and 17 per cent of the vote respectively.

Further, the former minister for local government, racing and multicultural affairs made a statement on 10 November 2020 advising that, once the new parliament was sworn in, the Palaszczuk government would introduce and pass a bill to retrospectively amend the Local Government Act. This statement provided notice to those persons directly affected, as well as the community generally, of the proposal to make retrospective amendments. Communities across Queensland expect and deserve to have faith and trust in our democratic processes. The amendments provide clarity to councils and councillors and to the communities they serve. The bill's retrospective effect is justified, and the impact on the rights and liberties of individuals is appropriate in the circumstances.

Subject to passage and assent of the bill, the department will continue to liaise with the Rockhampton Regional Council and Townsville City Council to advise of the way forward and to offer support as required. With these amendments the Palaszczuk government delivers on its commitment to swiftly address community concerns in relation to the vacancies issue. The government anticipates allowing the parliament fulsome consideration of how council vacancies should be filled in various circumstances in the future should the need arise.

I also take this opportunity to speak in support of the bill's extension of the operation of COVID-19 related legislation in my portfolio until 30 April 2021 or an earlier date to be prescribed. The Local Government (COVID-19 Emergency Response) Regulation 2020 modifies the Local Government Act 2009 to enable investigators from the Office of the Independent Assessor to require a person to answer questions related to the conduct of a councillor by attending in person or by audio or audiovisual link or providing answers by email or other electronic means. The Office of the Independent Assessor supports the proposed new expiry date, which will assist its ongoing evidence collection throughout the pandemic.

The Economic Development (COVID-19 Emergency Response) Regulation 2020 modifies requirements under the Economic Development Act 2012 to ensure information required to be contained on registers remains available to the public. This is achieved by enabling inspection of registers at an agreed time and place in addition to inspection at specific locations during office hours. This regulation also establishes alternative provisions for public notification of development applications in priority development areas. These alternative provisions ensure that a variety of methods are

available to provide suitable notice of applications to the public in response to recent local newspaper publication and circulation changes. Economic Development Queensland supports the proposed new expiry date. It ensures continuity of public access to information relevant to planning and development in priority development areas throughout the pandemic and avoids any potential failure to meet statutory requirements under the Economic Development Act 2012.

The Planning (COVID-19 Emergency Response) Regulation 2020 extends the modified requirements under the Planning Act 2016 to keep documents physically available for inspection and purchase to ensure planning and development assessment documents and information remain publicly accessible despite any health and safety restrictions that may be in place. I commend the bill to the House.