




Speech By
Hon. Dr Steven Miles
MEMBER FOR MURRUMBA

Record of Proceedings, 1 December 2022

LOCAL GOVERNMENT ELECTORAL AND OTHER LEGISLATION (EXPENDITURE CAPS) AMENDMENT BILL

Introduction

 **Hon. SJ MILES** (Murrumba—ALP) (Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympics Infrastructure) (11.17 am): I present a bill for an act to amend the City of Brisbane Act 2010, the Local Government Act 2009, and the Local Government Electoral Act 2011 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the State Development and Regional Industries Committee to consider the bill.

Tabled paper: Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022 [2029](#).

Tabled paper: Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022, explanatory notes [2030](#).

Tabled paper: Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022, statement of compatibility with human rights [2031](#).

I am pleased to introduce the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022. This bill implements an electoral expenditure caps scheme for Queensland local governments. The scheme continues the government's reform agenda for the sector, guided by principles of integrity, transparency, diversity and consistency. It delivers on our 2020 election commitment to the people of Queensland to implement electoral expenditure caps for local elections.

It is important that every Queenslander has the best representation on their councils as well as every opportunity to be on that council. The electoral expenditure caps scheme introduced by the bill will ensure the equitable conduct of Queensland local government elections. The scheme will provide a fair opportunity for anyone to participate in the electoral process. Importantly, the expenditure cap scheme being proposed for local government elections is similar to the laws that are already in place for Queensland state elections.

In 2019, the Legislative Assembly requested that the Economics and Governance Committee review the feasibility of introducing expenditure caps for Queensland local government elections with a view to the model commencing after the 2020 local government elections. On 15 September 2020 the committee tabled its report which recommended that an electoral expenditure caps scheme be established for Queensland's local government elections. The government's response supported the committee's seven recommendations in principle, subject to further analysis and consultation.

In April 2022, the Department of State Development, Infrastructure, Local Government and Planning released a discussion paper seeking stakeholder feedback on the proposed local government electoral expenditure caps scheme. This discussion paper was part of a consultative process, and every Queensland councillor and mayor was encouraged to make a submission on the discussion paper. I take this opportunity to thank all those who took the time to consider the discussion paper or make a submission. Feedback received reiterated broad support for introducing a local government electoral

expenditure caps scheme and has informed the preparation of the bill. The local government department has continued to consult with key stakeholders through the release of an exposure draft of the bill. I turn now to addressing the committee's recommendations in more detail as I outline the key amendments in the bill.

To implement the government's policy in relation to recommendation 1, the bill amends the definition of electoral expenditure in the Local Government Electoral Act 2011 to align with the definition under the state scheme. The new definition includes the concept that expenditure is electoral expenditure if incurred for a campaign purpose. For third parties, expenditure is electoral expenditure if the dominant purpose for which the expenditure is incurred is a campaign purpose.

The treatment of third-party electoral expenditure also aligns with the state scheme. Stakeholders supported this change, and the amendments provide uniformity and certainty to candidates, political parties and third parties who may participate in both local and state government election campaigns. They also provide clarity for the enforcement of both schemes by the Electoral Commission of Queensland.

To implement the government's policy in relation to recommendations 2, 3 and 4, the bill provides for registration of third parties and for a sliding scale of electoral expenditure caps for Queensland local government elections with reference to the number of electors in the relevant division or local government area. The sliding scale does not apply to the Brisbane City Council. In Brisbane the caps are a fixed amount in recognition that Brisbane City Council's election environment differs from other Queensland local government areas.

The proposed local government scheme is intended to align with the state scheme where practical and appropriate. However, unlike the state scheme, the proposed caps for mayor and councillor candidates are grouped into tiers, recognising differences in elector numbers and the varied shapes and sizes of Queensland's 77 local governments.

Consistent with the committee's recommendations, the cap amounts have been determined based on further analysis and consultation since the committee's report was released. The caps apply during the capped expenditure period for quadrennial elections, by-elections and fresh elections. The bill provides for caps for mayoral candidates over five bands. Outside Brisbane City Council, the bands begin at a \$30,000 cap for areas with 30,000 or fewer electors. The highest band outside Brisbane applies to areas with more than 200,000 electors, allowing a cap of \$175,000 plus an additional 25 cents per elector for each additional elector over 200,000. For Brisbane City Council mayoral candidates, the cap is \$1.3 million.

There are four bands for councillor candidates. Outside Brisbane City Council, these bands range from a \$15,000 cap for areas with 20,000 or fewer electors up to a maximum cap of \$30,000 for areas or divisions with 40,000 electors or more. For Brisbane City Council councillor candidates, the cap is \$55,000 per division. The expenditure cap for groups of candidates, or for registered political parties and each endorsed candidate, is the sum of the cap that would apply if each candidate were an individual candidate for the election. The expenditure cap is shared by the members of the group or by the political party and each endorsed candidate. However, the cap cannot be shared across different local government areas.

The purpose of these provisions is to ensure groups of candidates and registered political parties are subject to electoral expenditure caps while also being able to run coordinated group or political party campaign activities, for example, joint advertising or shared how-to-vote cards. These provisions are consistent with the view expressed in the committee report that caps for groups of candidates and political parties should be based on some form of aggregation method. The bill also provides for adjusting caps when there is a change in the number of candidates in a group or the number of candidates endorsed by a political party. For consistency with state electoral requirements, the bill requires a group or registered political party to notify the ECQ of changes to group membership or party endorsement. These requirements provide clarity regarding the electoral expenditure caps that apply to participants in an election, including the operation of adjustment of caps.

In relation to third parties, the bill provides that the electoral expenditure cap for an unregistered third party is \$6,000. A third party incurring more than \$6,000 of electoral expenditure must be registered with the Electoral Commission. The cap for registered third parties is equivalent to the mayoral electoral expenditure cap which would apply in the relevant local government area. However, for by-elections for councillor positions, the cap for registered third parties is equivalent to the councillor candidate cap, whether for a division or for an undivided council. The cap for registered third parties cannot be pooled across different local government areas and applies separately to spending in relation to each local government area.

To ensure the expenditure cap levels remain appropriate, the bill provides for the expenditure caps to be indexed according to the consumer price index. To ensure information about the expenditure caps is readily accessible and to provide certainty to candidates, the bill provides that information about the expenditure caps in relation to each election must be published on the ECQ's website and provided directly to each candidate in an election.

The bill models the length of the capped expenditure period for local government quadrennial elections on the length of the capped expenditure period for an ordinary state general election, that is, approximately seven months. For a local government quadrennial election held on the last Saturday in March, as required by the act, the period starts on the first business day after the last Saturday in the August preceding the election and ends on polling day. For by-elections, the capped expenditure period starts on the day notice of the by-election is published. For fresh elections, the capped expenditure period starts on the day the notice of the election is published, unless the capped expenditure period for a quadrennial election has already started.

To implement the government's policy in relation to recommendation 5 of the committee report, the bill provides that electoral expenditure incurred by an associated entity of an election participant is treated as though it were incurred by the election participant. The Local Government Electoral Act 2011 currently defines an associated entity in relation to political parties only. The bill amends this definition to align with the Electoral Act 1992. This means associated entities of candidates and groups of candidates will also be subject to the expenditure cap of the relevant election participant and to disclosure requirements, including electoral expenditure, gifts, loans and other amounts.

To implement the government's policy in relation to recommendation 6, the bill amends the Local Government Electoral Act 2011 to include new compliance and offence provisions to enforce the scheme. Where appropriate, the offences and associated penalties align with similar offences in the Electoral Act 1992. In addition, where appropriate, the bill aligns the record keeping and auditing requirements for state and local government elections. These requirements will ensure transparency and consistency between the state and local government systems.

Consistent with the state scheme, the bill requires registered third parties and political parties to open dedicated accounts for the election. However, for clarity, the operational requirements for the accounts and the associated penalties align with existing provisions in the Local Government Electoral Act 2011 about dedicated accounts for candidates and groups.

In relation to suspension and disqualification of councillors, the Local Government Electoral Act 2011 provides that a person may only be nominated as a candidate, or for appointment, as a councillor if the person is qualified to be a councillor under the local government legislation. The Local Government Act 2009 and the City of Brisbane Act 2010 provide that some offences, including offences under the electoral legislation, are disqualifying offences. If convicted of an integrity offence, a person is disqualified from being a councillor for a period of four years. If convicted of a serious integrity offence, a person is disqualified from being a councillor for a period of seven years. A councillor is automatically suspended under the legislation if charged with a disqualifying offence. The bill prescribes certain offences as serious integrity offences or integrity offences. This reflects the importance of transparency, equity and compliance with the new scheme.

The bill also ensures transparency by introducing a new process for the registration of agents of election participants. Currently, the legislation provides for the appointment of an agent for a group of candidates and for a register of group agents. It provides for certain obligations on the agent of a political party but not for registration of the agents under the local government legislation. The legislation does not provide for an agent of a candidate or of a third party.

The bill inserts new provisions to align with the Electoral Act 1992. They provide for the appointment and registration of agents of political parties, candidates and third parties who are both registered and unregistered. The ECQ must make information regarding both the register of agents and the register of third parties available for public inspection. To ensure election participants can understand and adhere to the local government electoral expenditure cap scheme and to implement the government's response to recommendation 7 of the committee report, the department will work with the ECQ to prepare training and capacity-building resources for the range of election participants to be affected.

The local government electoral expenditure caps scheme is another significant milestone that will promote equity in Queensland's local government elections and diversity in our councils. Every Queensland community deserves the best council that it can elect. We must look to encourage everyone who is passionate about their community to put their hand up to lead their community. This bill will level the playing field and promote a fair opportunity for all participants in an election to communicate and participate in our electoral process. I commend the bill to the House.

First Reading

Hon. SJ MILES (Murrumba—ALP) (Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympics Infrastructure) (11.31 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 State Development and Regional Industries Committee

Madam DEPUTY SPEAKER (Ms Bush): In accordance with standing order 131, the bill is now referred to the State Development and Regional Industries Committee.