



Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022

Report No. 37, 57th Parliament

State Development and Regional Industries Committee

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State Development and Regional Industries Committee

Chair	Mr Chris Whiting MP, Member for Bancroft
Deputy Chair	Mr Jim McDonald MP, Member for Lockyer
Members	Mr Michael Hart MP, Member for Burleigh
	Mr Robbie Katter MP, Member for Traeger
	Mr Jim Madden MP, Member for Ipswich West
	Mr Tom Smith MP, Member for Bundaberg

Committee Secretariat

Telephone	+61 7 3553 6662
Email	sdric@parliament.qld.gov.au
Technical Scrutiny Secretariat	+61 7 3553 6601
Committee webpage	www.parliament.qld.gov.au/SDRIC

Acknowledgements

The committee acknowledges the assistance provided by officials from the Department of State Development, Infrastructure, Local Government and Planning.

The committee also acknowledges the work of the former Economics and Governance Committee of the 56th Parliament and its *Inquiry into the feasibility of introducing expenditure caps for Queensland local government elections* report. The report can be read online at:

<https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=167&id=2908>

Inquiry documents

All web address references are current at the time of publishing.

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Chair's foreword

This report presents a summary of the State Development and Regional Industries Committee's (committee) examination of the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022 (Bill).

The committee has recommended that the Bill be passed.

An expenditure caps scheme for Queensland local councils and councillors is an important step to ensuring the equitable conduct of Queensland's local government elections.

There is broad support for an expenditure caps scheme. This has been made clear through a widespread and rigorous consultation process, with regular engagement with key stakeholders throughout the development of the Bill.

The expenditure caps scheme being proposed is similar to the scheme that exists for Queensland state elections. This creates consistency for candidates, parties or entities that operate in both local and state elections and makes it easier for the Electoral Commission of Queensland to monitor the scheme.

While supportive of the Bill, stakeholders raised several issues, including the expenditure cap period, cap amounts and definitions of electoral expenditure.

In acknowledgement of these issues, the committee has recommended the Department of State Development, Infrastructure, Local Government and Planning consider a thorough review of the expenditure caps scheme after the 2024 local government elections. We have also recommended that training on the expenditure caps scheme be part of the existing professional development framework for all candidates.

On behalf of the committee I thank all those organisations and individuals who participated in the inquiry for their valuable contributions. I thank my fellow committee colleagues for their collaboration. I also thank the Parliamentary Service staff who supported the inquiry.

I commend this report to the House.



Chris Whiting MP

Chair

Executive Summary

This report presents a summary of the State Development and Regional Industries Committee's (committee) examination of the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill (Bill).

The committee has recommended that the Bill be passed.

Policy objectives

The Bill's objectives are to:

- establish an expenditure caps scheme for Queensland local government elections
- reinforce the equitable conduct of Queensland local government elections and minimise the risk of unequal participation in the electoral process and ensure a fair opportunity to participate

The Bill follows a public inquiry conducted by the Economics and Governance Committee into the feasibility of introducing expenditure caps for Queensland local government elections.

Key features of scheme

The scheme is modelled on the scheme that applies in state elections and includes the following:

- a sliding scale of electoral expenditure caps for mayoral and councillor candidates based on elector numbers in recognition of the different sizes of local governments in Queensland
- the ability for groups of candidates to pool their expenditure caps, within a local government area, and up to a certain capped amount
- the ability for political parties and their endorsed candidates to pool their expenditure caps, within a local government area, and up to a certain capped amount
- applying expenditure caps to associated entities and a registration system to monitor the electoral expenditure of third parties
- aligning key definitions, such as 'electoral expenditure', 'campaign purpose', 'third parties' and 'associated entities', with the definitions provided under the state scheme.

Stakeholder views

Stakeholders indicated broad support for the introduction of an expenditure caps scheme in Queensland local government elections.

Key issues raised by stakeholders included the length of the capped expenditure period, the amount of the electoral expenditure caps and definitions for 'electoral expenditure' and 'campaign purpose'.

To address this, the committee has recommended training on expenditure caps be added to the training for local government candidates and that the Department of State Development, Infrastructure, Local Government and Planning consider a review of the scheme within 12 months after the 2024 local government elections.

Fundamental legislative principle and human rights issues

The committee is satisfied there is sufficient regard to fundamental legislative principles and human rights.

Recommendations

Recommendation 1 **8**

The committee recommends the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022 be passed.

Recommendation 2 **20**

That the Minister include training on electoral expenditure caps in the training and professional development requirements for councillors and local government candidates.

Recommendation 3 **23**

That the Department of State Development, Infrastructure, Local Government and Planning consider conducting a review of the electoral expenditure caps scheme within 12 months of the 2024 local government elections, and that the key findings of the review be published.

Recommendation 4 **26**

That the Queensland Government consider future legislative amendments to ensure that independent candidates in local government elections are not lawfully prevented from holding fundraising activities.

1 Introduction

1.1 Policy objectives and overview



The Bill establishes an electoral expenditure caps scheme for local government elections. The scheme seeks to ensure the equitable conduct of local government elections by minimising the risk of unequal participation and ensuring fair opportunity to participate in the process.¹

The Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill (Bill) amends the following acts to establish an expenditure caps scheme for local government elections:

- *Local Government Electoral Act 2011* (Local Government Electoral Act)
- *Local Government Act 2009* (Local Government Act)
- *City of Brisbane Act 2010* (City of Brisbane Act).

The proposed scheme is modelled on, and is broadly consistent with, the state electoral caps scheme already in place under the *Electoral Act 1992* (Electoral Act).²

1.1.1 Key features of the scheme

It is proposed that the scheme will be applied to all candidates from the 2024 local government elections and will include:

- **councillor and mayoral candidates** with individual caps based on a sliding scale in recognition of the different sizes of local governments in Queensland and the number of electors in a local government ward or division. Indicative caps for mayors and councillors can be found at **Appendix A** and **Appendix B**.
- **groups of candidates** who will be able to pool the individual caps of candidates in a group, within a local government area, and up to a certain capped amount.
- **registered political parties** that endorse a candidate in an election who will be able to pool the individual caps of their endorsed candidates, within a local government area, and up to a certain capped amount.
- **third parties** such as trade unions, industry associations and community groups, if registered, will be able to spend as much as an individual candidate, and if unregistered, will be able to spend up to \$6,000.

The Bill contains a definition of the **capped expenditure period** which is also modelled on the state scheme. For quadrennial elections, the capped expenditure period will commence approximately 7 months before polling day.³

The Electoral Commission of Queensland (ECQ) will determine and publish updated **elector numbers** and the corresponding cap that will apply, prior to an election. Caps will be indexed in line with the consumer price index (CPI).⁴

Compliance and enforcement provisions in the Bill generally align with those in the state scheme and existing offences under the Local Government Electoral Act.

¹ Explanatory notes, p 1.

² Explanatory notes, p 2.

³ Public briefing transcript, Brisbane, 14 December 2022, p 2.

⁴ Public briefing transcript, Brisbane, 14 December 2022, p 2.

Some offences have been prescribed as ‘integrity offences’ or ‘serious integrity offences’ which are disqualifying offences.⁵ If convicted of an integrity offence, a person is disqualified from being a councillor for period of 4 years. If convicted of a serious integrity offence, a person is disqualified from being a councillor for 7 years.⁶ The Bill also provides for several new offences, expansion of existing offences and the recovery of unlawful electoral expenditure.⁷

1.2 Background to the Bill



The Bill implements the Government Response to the recommendations of the Economics and Governance Committee’s inquiry into the feasibility of expenditure caps in Queensland. The scheme proposed by the Bill has been subject to a comprehensive consultation process, with many stakeholders commenting favourably on the process.

1.2.1 Inquiry by former Economics and Governance Committee

The Bill follows a public inquiry conducted by the Economics and Governance Committee (EGC) of the 56th Parliament into the feasibility of introducing expenditure caps for Queensland local government elections. The inquiry was a recommendation of the Crime and Corruption Commission’s (CCC) Operation Belcarra report.⁸

The EGC’s report made 7 recommendations which set out some general principles for establishing an expenditure caps scheme in Queensland. In summary, those recommendations included:

1. That the definition of electoral expenditure in the Local Government Electoral Act be aligned with the definition in the Electoral Act, subject to further consultation.
2. That a sliding scale of electoral expenditure caps be established with reference to the number of electors, including differentiation for mayoral and councillor candidates and divided and undivided councils where appropriate.
3. That further analysis and consultation with stakeholders be undertaken to determine caps of appropriate magnitude.
4. That further analysis and consultation be undertaken to determine an appropriate cap for third party electoral expenditure, and a system of third party registration be established to support the monitoring and enforcement of third party compliance with the established cap.
5. That electoral expenditure incurred by an associated entity for Queensland local government elections be treated as though it was incurred by the electoral participant with whom the entity is associated.
6. That scheme penalties and recovery provisions be aligned with those for the state government electoral expenditure cap scheme under the Electoral Act, and further consultation be undertaken on the potential prescription of scheme offences as integrity offences.
7. That the Department of State Development, Infrastructure, Local Government and Planning (department) coordinate with the ECQ to ensure election participants have access to a suite

⁵ Explanatory notes, p 24.

⁶ Local Government Act, section 153(1).

⁷ Explanatory notes, p 24.

⁸ Crime and Corruption Commission, *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government*, 2017, p xii; Economics and Governance Committee, Report No. 47, 56th Parliament, *Inquiry into the feasibility of introducing expenditure caps for Queensland local government elections*, 2020, p 1.

of informational resources and training to support their compliance with the established scheme.

The recommendations can be found in full at **Appendix C**.

The Bill addresses each of the recommendations. The department and the ECQ continue to work together in relation to recommendation 7 which relates to information and training.⁹

1.2.2 Consultation on the proposed scheme

The caps scheme proposed by the Bill has been subject to a comprehensive consultation process which dates back to 2019 when the EGC held its public inquiry. That inquiry identified broad support for the introduction of an expenditure caps scheme in Queensland.¹⁰

This was followed by departmental consultation with the ECQ on the operation of such a scheme, and the release of a discussion paper for public consultation between April and May 2022. Again, stakeholders were supportive of introducing a caps scheme. However, mixed feedback was received on the proposed capped expenditure period and the cap amounts.¹¹

Several changes were made in response to the public consultation including the removal of a proposal to allow registered third parties to pool expenditure caps across local government areas. Brisbane City Council cap amounts were also increased. In September 2022, a draft exposure Bill incorporating the proposed amendments was released for consultation with the Local Government Association of Queensland (LGAQ) and the ECQ. There was general support for the scheme.¹²

Several inquiry participants to this committee's inquiry reflected positively on the consultation process conducted by the department.¹³

Committee comment

The committee is satisfied that the consultation process for the Bill was comprehensive. Evidence to our inquiry reflected the feedback received by the department. It is clear there is broad support for the introduction of an expenditure caps scheme in Queensland. Inquiry stakeholders have suggested some amendments in relation to the expenditure cap period, certain definitions, and the need for a statutory review. These issues are discussed in further detail in the next chapter.

1.3 Legislative compliance



The committee's deliberations included assessing whether or not the Bill complies with requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* and the *Human Rights Act 2019*. The committee is satisfied that the Bill does not raise any significant issues.

1.4 Should the Bill be passed

The committee is required to determine whether or not to recommend that the Bill be passed.

⁹ Explanatory notes, p 1.

¹⁰ Economics and Governance Committee, Report No. 47, 56th Parliament, *Inquiry into the feasibility of introducing expenditure caps for Queensland local government elections*, 2020, p 7.

¹¹ Explanatory notes, p 46.

¹² Explanatory notes, p 46.

¹³ For example: Electoral Commission of Queensland (ECQ), submission 2, p 1; Local Government Association of Queensland (LGAQ), submission 14, p 4; Peregian Beach Community Association (PBCA), submission 8, p 2; Organisation Sunshine Coast Association of Residents (OSCAR), submission 18, p 1.

Recommendation 1

The committee recommends the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022 be passed.

2 Examination of the Bill

This section discusses key issues raised during the committee's examination of the Bill. It does not discuss all consequential, minor or technical amendments.

2.1 Support for the introduction of an expenditure caps scheme



There was unanimous support amongst inquiry participants for the introduction of an expenditure caps scheme in Queensland.

There was strong support for the introduction of an expenditure caps scheme in Queensland.

The LGAQ submitted that there is general support across the local government sector for the introduction of new electoral expenditure policy settings.¹⁴

The LGAQ urged the government to ensure expenditure caps were workable and enhance the democratic process, adding any unintended consequences or potential loopholes should be considered and safeguards built in to mitigate against them.¹⁵

Widespread support was also identified from community groups participating in the inquiry. For example, Redlands2030 supported the Bill's 'objectives of improving the opportunity for equitable participation in local government elections.' The Peregian Beach Community Association's (PBCA) outlined their support for 'the Queensland Government's rolling local government reform agenda to strengthen the transparency, accountability and integrity'. PBCA added that they believe the Bill's provisions support the principle that 'elections should be fair and free from undue influence.'¹⁶

The Queensland Law Society supports the introduction of local government electoral expenditure caps 'consistent with the approach taken in relation to state government electoral expenditure caps'.¹⁷

2.1.1 Committee comment

Queenslanders rightly expect local government elections to be democratic and fair. We have noted the widespread support from inquiry stakeholders and agree that the introduction of an expenditure caps scheme in Queensland will reinforce transparent and equitable conduct during Queensland's local government elections.

2.2 Caps for mayoral and councillor candidates



The Bill provides for a tiered mayoral and councillor electoral expenditure caps scheme based on the number of the electors, with the exception of Brisbane City Council. On balance, stakeholders were supportive of the cap amounts and considered them fair. Some stakeholders suggested amendments.

Clause 41 introduces a sliding scale of mayoral and councillor expenditure caps based on the number of electors. The ECQ will be responsible for determining elector numbers at a particular point in time, and will be required to publish a notice of the numbers, together with the relevant caps in the lead up to the election.¹⁸

¹⁴ LGAQ, submission 14, p 7.

¹⁵ LGAQ, submission 14, p 7.

¹⁶ PBCA, submission 8, p 1.

¹⁷ Queensland Law Society (QLS), submission 24, p 1.

¹⁸ Explanatory notes, p 13.

In recognition of the differing election environment, the sliding scale does not apply to Brisbane City Council, for which caps are a fixed amount.¹⁹

The caps will apply during the ‘capped expenditure period’ (discussed further below) for local government quadrennial elections, by-elections and fresh elections.²⁰

Mayoral candidate expenditure caps

Band	Number of electors	Mayoral candidates cap
Band 1	Up to 30,000	\$30,000
Band 2	30,000 to 150,000	\$1 per elector
Band 3	150,000 to 200,000	\$150,000, plus an additional 50 cents per elector for each elector over 150,000
Band 4	Over 200,000	\$175,000, plus an additional 25 cents per elector for each elector over 200,000
Brisbane City Council		
		\$1.3 million

Councillor candidate expenditure caps

Band	Number of electors	Councillor candidates cap
Band 1	Up to 20,000 in an LGA or division	\$15,000
Band 2	20,001 to 39,999 in an LGA or division	75 cents per elector
Band 3	40,000 or more in an LGA or division	\$30,000
Brisbane City Council		
		\$55,000 per ward.

A list of indicative mayoral and councillor candidate electoral expenditure caps for each of Queensland’s 77 local governments was provided by the department. See **Appendix A** and **Appendix B**.

The department advised that the cap figures were informed by several factors, including recommendations in the EGC’s report; models proposed by the Queensland Government and the LGAQ; and expenditure caps schemes in other jurisdictions such as New South Wales, Tasmania and New Zealand.²¹ Departmental officials provided further insight into the modelling process:

The former department of local government released some indicative caps around March 2019. The LGAQ then proposed its own model in its submission to the commission inquiry. The feeling at the time from the community was that the correct level of cap probably sits somewhere in between those two models. We also looked at expenditure cap models that other jurisdictions had in place. We then ran the models against how much the successful candidate spent at the 2020 local government election—to see who fell under, who fell over, where it sat, how many groups and councils may have fallen over that—to again guide whether or not it is a reasonable proposal. Then finally it went through the discussion paper phase in terms of the quantity of the caps. It has gone through quite a process to get to this point in terms of the amount of caps.²²

2.2.1 Stakeholder views

On balance, stakeholders were generally supportive of the proposed caps.

¹⁹ Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022 (Bill), new section 123D.

²⁰ Explanatory notes, p 7.

²¹ Department of State Development, Infrastructure, Local Government and Planning (Department), correspondence, 30 January 2023, pp 19-20.

²² B Blagoev, Executive Director, Department of State Development, Infrastructure, Local Government and Planning, public hearing transcript, Brisbane, 14 December 2022, p 4.

The LGAQ acknowledged that there is a balancing act in setting the cap amounts:

In relation to cap levels, obviously this is something that has been extensively consulted on. We appreciate there is a balancing act with where that cap should be. If you had caps too high, then that would render them meaningless. In relation to the general expenditure cap that this legislation outlines, we do not see it as being an issue that is necessarily going to affect every councillor. Many of them will not go anywhere near the level that is being proposed in this legislation. The biggest issue is going to be around compliance.²³

The LGAQ acknowledged that the tiered system and the defined caps for Brisbane City Council appropriately reflected feedback provided to the department during the April 2022 consultation process.

Several stakeholders said the sliding scale provisions were the fairest option and would allow grassroots democratic activity to continue in their communities.²⁴ Others found the sliding scale provisions reasonable and achievable, but commented that Brisbane City Council's higher, fixed caps would make it harder for independent candidates to compete in an election.²⁵ Some stakeholders believed the caps were too high and suggested lower cap amounts.²⁶

Brisbane Residents United (BRU) recommended that expenditure caps for incumbents should be lower than for new candidates to account for the natural advantage incumbent councillors and mayors have in elections.²⁷ In response, the department added that the EGC was not convinced of the benefits of establishing different caps for incumbents versus new candidates during its inquiry, and that the final expenditure caps in the Bill were informed from feedback received during consultation.²⁸

2.2.2 Committee comment

The committee is satisfied that the level of caps for mayoral and councillor candidates are appropriate and are underpinned by a comprehensive modelling and consultation processes.

2.3 Caps for groups, political parties and endorsed candidates



The Bill provides for a group of candidates, or a registered political party and their endorsed candidates, to pool their electoral expenditure caps within a local government area. This is so groups of candidates or candidates endorsed by a political party can conduct coordinated election campaigns.

The Bill provides expenditure caps for groups of candidates or registered political parties and their endorsed candidates. 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.²⁹

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, and cannot exceed a 'maximum amount' which is based on the number of vacancies to be filled in an election. This is intended to stop a group or registered political party from having a disproportionately large

²³ A Smith, CEO, LGAQ, public hearing transcript, Brisbane, 31 January 2023, p 3.

²⁴ Cr Jenny Hill, submission 5, p 1; Redland City Council, submission 7, p 1.

²⁵ Gecko Environment Council, submission 22, p 1; SEQ Community Alliance, submission 11, p 2.

²⁶ OSCAR, submission 18, p 3; Marco Gliori, submission 1; SEQ Community Alliance, submission 11.

²⁷ Brisbane Residents United (BRU), submission 21, pp 6-7.

²⁸ Department, correspondence, 30 January 2023, p 20.

²⁹ Explanatory notes, p 8.

expenditure cap by simply putting up more candidates than the number of councillor vacancies in an election.³⁰

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.

2.3.1 Stakeholder views

When discussing pooled expenditure caps, stakeholders were focused on ensuring that pooled caps created a level playing field and were not misused by candidates.³¹

The LGAQ submitted that that ECQ will need to be mindful of groups of candidates getting an unfair advantage by using non-genuine candidates to increase their cap. The LGAQ recommended that the cap pooling provisions be evaluated as part of a broader review of the legislation to ensure a level playing field between candidates.³²

Cr Jenny Hill welcomed the proposal and was of the view that the cumulative effect for caps in groups of candidates encourages groups of candidates to be transparent in disclosing their association.³³

Cr Wendy Boglary expressed concern that the pooling of group caps may lead to a disadvantage to an individual 'independent' candidate, and suggested that candidates should be proven to show they are seriously running candidates. Cr Boglary also emphasised the importance of transparency and accountability in the pooling of funds to the community.³⁴

In response, the department noted these concerns adding that earlier versions of the scheme were modified to address concerns about 'flooding' an election with candidates, and that the Bill has a maximum on group or party caps based on the vacancies at that election.

The department also advised that the purpose of the pooling provisions is to enable coordinated group and political party campaign activities, and that requiring joint expenditure to be apportioned to the individual candidates 'would not align with the reality of group and party campaign activities and would impose additional administrative burden and costs on groups and parties.'³⁵

The department also noted that the ECQ's compliance oversight responsibility will include pooling components of the expenditure caps scheme.³⁶

2.3.2 Committee comment

The committee is satisfied that the group pooling arrangements are appropriate and are underpinned by a comprehensive consultation process. We agree with the LGAQ that cap pooling provisions should be evaluated as part of a broader review of the scheme following the 2024 local government elections should the Bill be passed.

³⁰ Explanatory notes, p 9; Department, correspondence, 19 December 2022.

³¹ Cr Wendy Boglary, submission 16, p 4.

³² LGAQ, submission 14, pp 15-16.

³³ Cr Jenny Hill, Mayor of Townsville City, submission 5.

³⁴ Cr Wendy Boglary, submission 16, p 4.

³⁵ Department, correspondence, 30 January 2023, p 25.

³⁶ Department, correspondence, 30 January 2023, p 25.

2.4 Length of capped expenditure period



The Bill proposes a capped expenditure period of approximately 7 months, to align with the existing state expenditure scheme. Stakeholders provided mixed feedback on the timeframe, including the LGAQ who suggested that the expenditure period should be extended to the full quadrennial term.

Clause 41 defines the capped expenditure period, which aligns with the electoral expenditure cap period in the state scheme as set out in the Electoral Act, which is also about 7 months.³⁷

There are 2 provisions in the Bill that determine when electoral expenditure is incurred. One is a general provision and the other applies for particular purposes.³⁸ These provisions ensure that the caps cannot be avoided by entering into arrangements prior to the commencement of the capped expenditure period.

2.4.1 Stakeholder views

Inquiry stakeholders gave mixed feedback on the proposed length of the capped expenditure period, with some calling for it to be extended, and others suggesting it should be shorter.

For example, the LGAQ maintained its position that the capped expenditure period should apply for the full local government term (i.e. 4 years), submitting that this approach could enhance council elections being fair and free from undue influence.

The LGAQ reasoned that it takes time for most candidates to fundraise, and limiting the capped expenditure to 7 months could potentially favour candidates or their supporters with ‘deeper pockets’ and could create an uneven playing field and potential corruption risk.³⁹

The LGAQ added that should the Bill be passed in its current form, the timing should be considered as part of a statutory review conducted after the 2024 elections.⁴⁰

Conversely, Queensland Council of Civil Liberties (QCCL) recommended a shorter capped expenditure period of 4 months, citing a UK Government review that also recommended a 4 month capped expenditure period. QCCL submitted that a UK report found most voters were unlikely to be influenced by campaigning many months before an election.⁴¹

In response, the department advised that 7 months is considered appropriate as by aligning the length of the capped expenditure period with the existing state scheme, it is easier to operate, understand and comply with.⁴² The department also made clear that the Bill addresses the potential stockpiling electoral material outside of the capped expenditure period by specifically defining ‘when election expenditure is incurred’.⁴³

The length of the capped expenditure period is also considered in some detail in the Bill’s Statement of Compatibility with human rights.⁴⁴ The statement concludes that the proposed expenditure period supports the balance between the Bill’s purpose and the Bill’s impact on human rights.

³⁷ Electoral Act, section 280(1)(a); explanatory notes, p 15.

³⁸ Bill, new section 109E and 109F.

³⁹ LGAQ, submission 14, p 14.

⁴⁰ LGAQ, submission 14, p 14.

⁴¹ Queensland Council of Civil Liberties (QCCL), submission 20, p 4.

⁴² Department, correspondence, 30 January 2023, pp 16-17.

⁴³ Department, correspondence, 30 January 2023, pp 16-17.

⁴⁴ Statement of compatibility, pp 10-11.

For example, a shorter capped expenditure period would be less restrictive on rights to freedom of expression and taking part in public life. However, it would also make the caps less effective in terms of levelling the playing field for electoral campaigning; and vice versa.⁴⁵

The committee sought feedback from the ECQ of the resourcing impacts associated with a longer expenditure cap period. The ECQ advised:

A longer capped expenditure period would most definitely have a greater resourcing implication from our point of view from a real-time monitoring perspective, from a compliance response perspective and from a candidate support perspective.

Our experience is that a lot of candidates in local government elections do not show their hand for a little while until they are closer to the election event, so it is sometimes hard for us to provide that support unless people engage with us directly or obviously if we have information in the public realm about this scheme to help people, which we do quite extensively.⁴⁶

2.4.2 Committee comment

The committee is satisfied that alignment with the Electoral Act and a capped expenditure period of 7 months as proposed in the Bill is appropriate.

Subject to the passage of this Bill, we have recommended (Recommendation 3) that the department, in partnership with the ECQ and key stakeholders review the performance of the scheme after the 2024 elections. We would strongly encourage the department and ECQ to consider the capped expenditure period at this time.

2.5 Definition of ‘electoral expenditure’, ‘campaign purpose’ and ‘gifted’



The Bill amends the definitions of ‘electoral expenditure’, ‘campaign purpose’ and ‘gifted electoral expenditure’ in the Local Government Electoral Act to align with the definitions in the Electoral Act. Several inquiry participants suggested that further clarity was required on certain concepts contained in these definitions.

Clause 24 provides definitions within the Local Government Electoral Act for electoral expenditure and campaign purpose which align with the Electoral Act, as recommended by the EGC.

The new definition includes the concept that expenditure is electoral expenditure if incurred for a ‘campaign purpose’. That is, incurred to promote or oppose a political party or group of candidates in relation to an election, promote or oppose the election of a candidate, or otherwise influence voting in an election.⁴⁷

The kind of expenditure caught by the definition is also set out in the Bill and includes: designing, printing, broadcasting, and distributing material for an election campaign; the cost of distributing material; carrying out an opinion poll or research and other expenditure prescribed by legislation.⁴⁸

The explanatory notes states that aligning the definitions with the Electoral Act provides certainty to candidates, parties and third parties who may participate in both local and state government election campaigns. It also provides clarity for enforcement of both schemes by the ECQ.⁴⁹

⁴⁵ Statement of compatibility, pp 10-11.

⁴⁶ W Lewis, Assistant Electoral Commissioner, Electoral Commission Queensland, public hearing transcript, 31 January 2023, p 31.

⁴⁷ Bill, new section 109B.

⁴⁸ Bill, new section 109A(2).

⁴⁹ Explanatory notes, p 5.

2.5.1 Council newsletters

Several stakeholders sought to ensure that council and councillor newsletters were not caught within the definition of campaign expenditure.

The LGAQ suggested that clause 24 be amended to make clear that council communications and marketing activities, such as those which outline important community related information, are not deemed as campaign expenditure unless they expressly advocate for a vote.⁵⁰

However, this view was not unanimous. Other stakeholders including Cr Boglary and Cr Berridge noted the potential for official communications to be used to influence voters, with positive announcements being made just before an election.⁵¹

In response, the department advised that it will be working with the ECQ to support compliance with the scheme through the development of resources and training materials, and while acknowledging that matters of interpretation are part of the ECQ's compliance role, the department will work with the ECQ to ensure guidance material is clear and consistent.⁵²

2.5.2 Campaign office and campaign staff

The Bill's definition of 'electoral expenditure' specifically excludes expenditure incurred employing staff for a campaign purpose and does not cover expenditure incurred for office accommodation.⁵³

Several stakeholders recommended widening the definition to include campaign offices and staff, suggesting that candidates with a campaign office and staff have a clear advantage.⁵⁴

In response the department noted that the definition is aligned with the Electoral Act to provide certainty for those who participate in both state and local government elections, as well as clarity for ECQ in its compliance work.⁵⁵

2.5.3 Council advisors

Cr Jacob Heremaia stated that the Local Government Act currently prohibits council advisors from helping a councillor in activities related to a re-election campaign,⁵⁶ and recommends it be amended to prohibiting council advisors from helping a councillor with activity related to a campaign purpose. Cr Heremaia states this would create consistency between the Local Government Electoral Act and the Electoral Act.⁵⁷

The department noted the Cr Heremaia's recommendation and stated they will give further consideration to the issue.⁵⁸

2.5.4 Gifts and gifted electoral expenditure

The Bill aligns the Local Government Electoral Act definition of gifted electoral expenditure to the Electoral Act.⁵⁹ It provides that if electoral expenditure is gifted to an election participant (i.e. a candidate), then that election participant is taken to have incurred the expenditure.⁶⁰

⁵⁰ LGAQ, submission 14, p 10.

⁵¹ W Boglary, A Berridge, public hearing transcript, Brisbane, 31 January 2023, pp 20-21.

⁵² Department, correspondence, 30 January 2023, p 6.

⁵³ Bill, new section 109A.

⁵⁴ OSCAR, submission 18, p 2; BRU, submission 21, p 9; Cr Wendy Boglary, submission 16, p 2.

⁵⁵ Department, correspondence, 30 January 2023, p 7.

⁵⁶ Local Government Act, section 197A(5).

⁵⁷ Cr Jacob Heremaia, submission 15, pp 1-2.

⁵⁸ Department, correspondence, 30 January 2023, p 12.

⁵⁹ Electoral Act, section 199.

⁶⁰ Bill, new section 109D.

The Bill states that electoral expenditure is gifted if the expenditure benefits an election participant and certain conditions apply, such as:

- the expenditure is incurred with the authority of the election participant, or relevant material resulting from the expenditure is given to the election participant, and
- the person who incurred the expense does not receive adequate consideration from the election participant, or does not invoice them.⁶¹

The Bill also amends the Local Government Electoral Act's definition of gift⁶² to generally align with the definition under the Electoral Act.⁶³

Several stakeholders noted the benefits of gifted electoral expenditure being aligned across state and local government election schemes and appreciated the effort to more clearly include gifts in the definition for election expenditure.⁶⁴ Others stated that more clarity is needed on the definition of gift and recommended all gifts be required to be disclosed, no matter the size or value.⁶⁵

In response, the department advised that the Bill generally aligns the definition of gift in the Local Government Electoral Act with the definition of the Electoral Act, and that alignment of definitions makes it easier for participants and voters to understand and apply.

The department also advised that the threshold for donations, interests and gifts avoids the unnecessary work in disclosing small amounts of money that could not reasonably create conflicts of interest.⁶⁶

2.5.5 Committee comment

The committee recognises that stakeholders need clarity in legislation. We also note that alignment of definitions across state and local schemes will give certainty and consistency to those who participate in state and local government elections.

Comprehensive and accessible educational and training resources will be vital to ensuring that definitions are consistently interpreted by-election candidates. The department should consider issuing specific directions or communications that clarify newsletters issued by council are not covered by this legislation, and the circumstances in which campaign offices are covered.

2.6 Third party registration and expenditure caps



The Bill creates a registration framework for third parties and provides a cap for an unregistered third party of \$6,000. A third party that incurs more than \$6,000 of electoral expenditure must be registered with the ECQ. Stakeholders expressed general support for the third-party framework. Some concerns were raised around the drafting of certain concepts and the impact on third party public interest advocacy.

Third parties are participants in an election that incur electoral expenditure, but are not candidates, groups of candidates or registered political parties.⁶⁷

⁶¹ Bill, new section 109C.

⁶² Local Government Electoral Act, section 107.

⁶³ Electoral Act, section 201.

⁶⁴ LGAQ, submission 14, p 10; Gecko Environment Council, submission 22, p 1.

⁶⁵ Australian Local Government Women's Association (Queensland Branch), submission 17.

⁶⁶ Department correspondence, 30 January 2023, p 29.

⁶⁷ Bill, new section 106AB.

Clause 47 of 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.⁶⁸ This aligns with the state electoral expenditure caps scheme.⁶⁹

The cap for registered third parties is equivalent to the mayoral electoral expenditure cap that 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 divided 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.

2.6.1 Stakeholder views

Several stakeholders outlined their support for the third party provisions.

The LGAQ submitted that third party registration 'is an important way of preventing third parties from having a distorting influence' and noted no concerns with the level of caps. PBCA said the provisions are a 'welcome advance towards ongoing electoral reform'.⁷⁰

QCCL also indicated support for third party provisions above a certain threshold, but noted it is important that the threshold is not so low so as to impose unacceptable burdens on advocacy groups, particularly small ones.⁷¹

The Queensland Law Society (QLS) expressed concern that the drafting of the Bill in its current form could have a chilling effect on the participation of not for profit third party organisations in the debate and development of social policy.⁷²

QLS submitted that the Bill introduces a number of uncertainties in the drafting of key concepts which will make it difficult for third parties to assess whether or not their participation in the public debate will give rise to registration and compliance obligations under the Bill. QLS recommended:

- Clarifying the operation of the dominant purpose test (that is, the test used to determine if expenditure is for a campaign purpose) to add further examples and give guidance to third parties.⁷³
- Removing 'to otherwise influence voting at an election', from the definition of campaign purpose; or replace 'influence voting' with 'direct voting', 'procure voting' or 'secure voting'; or remove 'otherwise' from proposed section 109B(1)(c) entirely.⁷⁴
- Amending proposed section 109B(2)(c) of the Local Government Electoral Act to introduce the requirement for a connection between (a) a third party expressing a particular position on a policy issue, and (b) that expression expressly or impliedly promote or oppose a party or candidate in an election.⁷⁵
- Introducing exemptions from the third party registration framework for certain organisations, such as small charities and not-for-profits, from the third party registration framework.⁷⁶

⁶⁸ Bill, clause 47.

⁶⁹ Department, correspondence, 30 January 2023, p 15.

⁷⁰ LGAQ, submission 14, p 14; Cr Wendy Boglary, submission 16, p 2; PBCA, submission 8, p 2.

⁷¹ QCCL, submission 20, p 5.

⁷² QLS, submission 24, p 4.

⁷³ QLS, submission 24, p 5. See section 109A(5) and (6).

⁷⁴ QLS, submission 24, pp 5-6.

⁷⁵ QLS, submission 24, p 2.

⁷⁶ QLS, submission 24, pp 7-8.

The suggestion of exemptions from the third party registration framework was addressed by the then Attorney-General and Minister for Justice following the EGC inquiry. The Attorney-General noted ‘the government is not persuaded that exemption for a class of third party on the basis of charitable status would be appropriate’.⁷⁷

Other stakeholders believed third party provisions did not go far enough. BRU stated that the Bill will do little to govern election spending by industry associations and corporations. The SEQ Community Alliance stated that the differences between third party and associated entity may not be well understood by the public, and that the committee ought to give examples and explore the differences in its report.⁷⁸

The Bill amends the definition of ‘associated entity’ to align with the Electoral Act. Associated entities are different from third parties in that they are controlled by, or work to the benefit of, political parties or candidates. Expenditure incurred by an associated entity is treated as though it were incurred by the candidate or the political party.⁷⁹

In response, the department advised that the third party registration system, including definitions and cap amounts, align with the state system under the Electoral Act. The department stated that alignment of definitions for third party and associated entity provides uniformity and certainty to candidates, parties and third parties, as well as the ECQ.⁸⁰

2.6.2 Committee comment

The committee is satisfied that the third party registration process and cap amounts are appropriate, and are aligned with the state scheme to make it easier for those operating in local and state elections.

Training and awareness resources will be important and the committee encourages the department to continue working with the ECQ to ensure that third parties understand their compliance obligations under the scheme.

2.6.3 Reports and disclosing of expenditure



The Bill provides for new disclosure periods for groups, registered political parties, third parties and associated entities to ensure transparency and clarity, with the goal that disclosure periods do not cross elections and create duplicated burdens for electoral participants.⁸¹

The Bill creates different disclosure periods for certain types of third parties. For example, only registered third parties and third parties that are required to be registered must disclose their expenditure and operate dedicated accounts.

2.6.4 Stakeholder views

Stakeholders were generally in favour of the increased reporting and disclosure provisions in the Bill, especially for third parties and associated entities.⁸² Some stakeholders expressed the desire for the ECQ to publish candidate’s summaries of electoral expenditure after elections.⁸³

⁷⁷ Department, correspondence, 30 January 2023, p 14.

⁷⁸ BRU, submission 21, p 2; SEQ Community Alliance, submission 11, p 2.

⁷⁹ Explanatory notes, p 17; Electoral Act, sections 204 and 204A.

⁸⁰ Department, correspondence, 30 January 2023, pp 8-9, 16.

⁸¹ Explanatory notes, pp 16-17.

⁸² Cr Wendy Boglary, submission 16, p 2.

⁸³ SEQ Community Alliance, submission 11, p 2; OSCAR, submission 18, p 4; Redlands2030, submission 12, p 2.

The department notes that ECQ is already required to publish election summary returns within 5 business days after they receive a return. The ECQ is also required to ensure that the public may inspect a return or other document published by the ECQ.⁸⁴

The Bill amends existing requirements for summary expenditure returns to require them from candidates, groups of candidates, registered political parties, associated entities and relevant third parties, as well as certain broadcasters and publishers.⁸⁵

2.6.5 Committee comment

Transparency in electoral expenditure is a key part of the objectives of the Bill. The committee notes that the Bill aligns disclosure periods and requirements for election summary returns to those under the state scheme.

We also note that the ECQ is already required to publish expenditure summary returns under the state scheme. We find that the Bill's proposed amendments create a sufficient level of transparency of electoral expenditure.

2.7 Implementation and training for election participants



The department will work with the ECQ to prepare training and capacity-building resources for the full range of election participants. This was welcomed by inquiry stakeholders, who also made several suggestions on the form of the training.

The proposed introduction of the caps scheme will require the ECQ to expand its educational and awareness-raising activities to ensure that electoral participants are aware of the new obligations and how to comply with those obligations as well as its regulatory activities at all phases of the electoral cycle.⁸⁶

The ECQ advised that as regulator, its approach is to proactively engage stakeholders to provide information, education and reasonable support in meeting obligations. This provides the foundation for compliance, supported by the measured and proportionate use of powers and enforcement tools where necessary. ECQ advised that this approach has been successful in recent years.⁸⁷ Several inquiry participants also commented favourably on support previously provided by the ECQ.

The ECQ submitted that educational material on expenditure caps is intended to be published in July/August 2023 to align with the timeframe by which electoral expenditure caps must be calculated. The ECQ has started discussions with the department regarding candidate training.⁸⁸

The ECQ advised that additional resourcing will be required to enable continued promotion of public awareness and education of stakeholders about their rights and responsibilities under the Act.⁸⁹

Many inquiry participants reflected on the importance of adequate training.⁹⁰

⁸⁴ Local Government Electoral Act, sections 128 and 129.

⁸⁵ Department, correspondence, 30 January 2023, p 28.

⁸⁶ Public hearing transcript, Brisbane, 31 January 2023, p 28.

⁸⁷ Public hearing transcript, Brisbane, 31 January 2023, p 28.

⁸⁸ Public hearing transcript, Brisbane, 31 January 2023, p 28.

⁸⁹ Public hearing transcript, Brisbane, 31 January 2023, p 28.

⁹⁰ LGAQ, submission 14, p 18; BRU, submission 21, p 9; Redland City Council, submission 7, p 2.

The LGAQ outlined its support for proposals by the government to provide resources and information to assist candidates with their obligations, suggesting that ECQ may wish to consider implementing a mobile phone app to assist in compliance and tracking.⁹¹

BRU stated online training materials were necessary and recommended a dedicated hotline for candidates and councillors to seek advice.⁹² Redland City Council suggested the expenditure caps scheme be required as part of mandatory councillor training.⁹³

QLS recommended a wide-ranging education campaign for those who may be caught by the new regulatory framework.⁹⁴ QLS also questioned whether councillors have been given adequate support to ensure that they are able to comply with new obligations, noting the complexity of existing obligations relating to councillor conduct.⁹⁵

In response, the department committed to working with the ECQ to develop guidance material and training resources to support compliance with the scheme, in line with recommendation 7 of the EGC's report.⁹⁶

2.7.1 Committee comment

The committee firmly believes that the development of a comprehensive and accessible training program is vital to ensuring that councillors and candidates are able to meet their obligations under the new caps scheme. This training must be ready by August 2023 to align with the calculation and publication of the expenditure caps for participants, and ensure candidates have sufficient time to absorb and understand the requirements.

We strongly suggest that training on electoral caps be compulsory for all candidates participating in local government elections.

Recommendation 2

That the Minister include training on electoral expenditure caps in the training and professional development requirements for councillors and local government candidates.

2.8 Compliance, penalties and enforcement



The Bill proposes aligning the new scheme's penalties and recovery provisions in the Local Government Electoral Act with those in the Electoral Act. The Bill provides offences for breaching one's expenditure cap, as well as penalties that support transparency and compliance with the scheme through audits and reporting.

A person may only be nominated as a candidate in a local government election if the person is qualified to be a councillor under the relevant local government legislation.⁹⁷ A person can be disqualified from being or running as a councillor if they breach part of the local government legislation.⁹⁸

⁹¹ LGAQ, submission 14, p 18.

⁹² BRU, submission 21, p 9.

⁹³ Redland City Council, submission 7, p 2.

⁹⁴ QLS, submission 24, p 3.

⁹⁵ QLS, submission 24, p 3.

⁹⁶ Department, correspondence, 30 January 2023, p 34.

⁹⁷ Local Government Electoral Act, section 26.

⁹⁸ Local Government Act, section 152; City of Brisbane Act, section 152.

The Bill includes a range of enforcement measures aligning with similar provisions in the Electoral Act.⁹⁹ Some offences are classed as integrity or serious integrity offences, which disqualify a person from being a councillor for a certain period.

If convicted of an integrity offence, a person is disqualified from being a councillor for 4 years. The disqualification period for a serious integrity offence is 7 years.¹⁰⁰ A councillor is automatically suspended under the legislation if charged with a disqualifying offence.¹⁰¹

The Bill proposes extending the offences to cover individuals and organisations (i.e. political parties, associated entities and third parties).¹⁰²

The Bill creates the following offences and penalties:

New or amended section	Offence	Penalty units	Integrity Offence
123O	Breach of expenditure cap by unregistered third party	200	Integrity offence
123N	Breach of expenditure cap by candidate, group of candidates, registered political party or registered third party	1,500 (or 10 years imprisonment)	Serious integrity offence
127AA 127AB	Requirement for registered political parties, registered third parties and third parties required to be registered to operate dedicated accounts for elections	100	Integrity offence
127V	Requirement for election participant to assist auditors	200	Integrity offence
135E	Auditor required to give notice of contravention	100	Integrity offence
116G	Requirement for agents to ensure compliance	100	Integrity offence
31	Failure to notify ECQ of a registered political party's withdrawal of endorsement for a candidate	40	N/A
Part 6, Division 5B	Requirement for election participants, political parties, candidates, groups of candidates and associated entities to keep records	20	N/A

2.8.1 Stakeholder views

Several stakeholders supported the penalties, stating they must be firm enough to deter non-compliance.¹⁰³

⁹⁹ Statement of compatibility, p 31.

¹⁰⁰ Local Government Act, section 153; City of Brisbane Act, section 153.

¹⁰¹ Local Government Act, section 175K.

¹⁰² Bill, new section 112B(5).

¹⁰³ SEQ Community Alliance, submission 11, p 2; Cr Wendy Bogleary, submission 16, p 3.

QCCL objected to the offence for breaching one's expenditure caps applying to a person even if the breach was unintentional. The QCCL stated they oppose someone being convicted based on what the perpetrator should have known.¹⁰⁴

Stakeholders also commented on the need for swift investigations to reduce disruptions to an election and prevent by-elections if a successful candidate is later convicted of an integrity or serious integrity offence.¹⁰⁵

The ECQ submitted that it understands the design of the expenditure caps scheme and has 'a well-advanced strategy' to implement it. The ECQ says its largest challenge is that most local government candidates are not endorsed by a political party and lack administrative support. ECQ adds these candidates rely on ECQ to understand their obligations.¹⁰⁶

The department stated that the penalty for breaching expenditure caps aligns with the state scheme under the Electoral Act. The department recognises that the timing of how compliance is monitored and enforced is important, and that it will continue working with ECQ to prepare training and capacity building resources to support compliance.¹⁰⁷

2.8.2 Committee comment

Penalties must be proportionate to the offence and reflect community expectations regarding the seriousness of the offence. We believe the offence provisions are relevant and appropriate and provide a necessary deterrent to those who may seek to undermine the integrity of local government elections in Queensland.

2.9 Review of the scheme



Several inquiry participants suggested that the expenditure caps scheme should be subject to a statutory review after the 2024 local government election. The committee agrees and has recommended that a review be conducted within 12 months of the election, and that the results of this review be published.

The LGAQ recommended that given this is a new scheme, a clause should be inserted into the Bill to ensure a statutory review of the scheme is held within 12 months of the 2024 local government elections; and that, if possible, the review be conducted by a parliamentary committee.¹⁰⁸

The LGAQ recommended that the review should cover concepts including:

- the capped expenditure period
- group campaign cap pooling
- the differentiation between caps for divided and undivided councils and the impact of pooling caps for groups or political parties
- the timing of elector number determinations.¹⁰⁹

Several community groups including SEQ Community Alliance and OSCAR expressed a similar view.¹¹⁰

¹⁰⁴ QCCL, submission 20, p 5.

¹⁰⁵ Redland City Council, submission 7, pp 1-2; Cr Wendy Boglary, submission 16, p 3.

¹⁰⁶ Electoral Commission of Queensland, submission 2, p 5.

¹⁰⁷ Department, correspondence, 30 January 2023, pp 29-30.

¹⁰⁸ LGAQ, submission 14, p 2.

¹⁰⁹ LGAQ, submission 14, p 2.

¹¹⁰ SEQ Community Alliance, submission 11, p 2; OSCAR, submission 18, p 4.

In response, the department acknowledged the importance of regular legislative review and undertook to include the local government expenditure cap framework within its business as usual review process. The department also committed to closely monitor how the scheme operates in its first year, in partnership with the ECQ and taking into account feedback from stakeholders, including the LGAQ.¹¹¹

Furthermore, ECQ will conduct compliance activities for the scheme during and following each election. Findings from these activities will be important to understanding the scheme's performance.¹¹²

2.9.1 Committee comment

The committee agrees that, should the Bill be passed, a comprehensive review of the new scheme should occur after the 2024 local government elections to ensure that it is operating as intended. We believe this review would be best carried out by the department as the policy lead, in conjunction with the ECQ as regulator of the scheme.

Feedback from stakeholders will be vital and should form an important component of the review. Transparency is also important and we have recommended that the key findings of the review be published by the department within 12 months of the elections taking place.

Recommendation 3

That the Department of State Development, Infrastructure, Local Government and Planning consider conducting a review of the electoral expenditure caps scheme within 12 months of the 2024 local government elections, and that the key findings of the review be published.

2.10 Fundamental legislative principles

The committee considered fundamental legislative principles as they relate to the Bill including those outlined in the diagram below.

Freedom of expression and right to participate in public affairs

- Creating expenditure caps for local government elections
- Definition of electoral expenditure

Privacy

- Must notify ECQ of changes to a candidate group
- Must notify ECQ of changes to a registered political party's endorsement of a candidate
- Third party or agent must register with ECQ
- Reporting on gifts, loans and expenditure
- Broadcasters and publishers must provide returns to ECQ
- Record keeping obligations

¹¹¹ Department, correspondence, 30 January 2023, pp 37-38.

¹¹² Department, correspondence, 30 January 2023, pp 37-38.

Offences and penalties

- Penalties for non compliance with the scheme
- Integrity and serious integrity offences

Reasonable and fairness of treatment of individuals

- Applying offences to all individuals in a group
- Applying offences to executive committees
- Absence of agent
- Expenditure by councillor not contesting election

Delegation of legislative power

- Power to make regulations

Constitutional validity and exercise of State power

- Creating expenditure caps for local government elections
- Definition of electoral expenditure

2.10.1 Committee comment

The committee is satisfied that any potential breaches to fundamental legislative principles are appropriate and sufficiently justified.

We find that the explanatory notes accompanying the Bill comply with Part 4 of the Legislative Standards Act.

2.11 Human Rights Act 2019

The committee considered the compatibility of the Bill with the *Human Rights Act 2019*. The Statement of Compatibility notes that the Bill limits several human rights including:

Electoral expenditure caps	<ul style="list-style-type: none"> • Freedom of expression • Right to take part in public life • Freedom of association
Group membership requirements	<ul style="list-style-type: none"> • Freedom of association
Notification requirements	<ul style="list-style-type: none"> • Right to privacy and reputation • Freedom of association
Registration of third parties	<ul style="list-style-type: none"> • Right to privacy and reputation • Freedom of expression • Right to take part in public life
Requirement to keep dedicated accounts	<ul style="list-style-type: none"> • Right to privacy and reputation • Right to property • Freedom of expression • Right to take part in public life
Associated entities	<ul style="list-style-type: none"> • Freedom of expression • Freedom of association • Right to privacy and reputation • Right to property
Appointment and registration of agents	<ul style="list-style-type: none"> • Freedom of expression • Freedom of association • Right to take part in public life • Right to privacy and reputation
Integrity and serious integrity offences	<ul style="list-style-type: none"> • Freedom of association • Right to take part in public life • Right to property • Right to liberty and movement • Rights in criminal proceedings
Record keeping and auditing	<ul style="list-style-type: none"> • Freedom of association • Right to privacy and reputation
Requirement for returns from broadcasters and publishers	<ul style="list-style-type: none"> • Right to privacy and reputation • Freedom of expression • Right to take part in public life

2.11.1 Committee comment

The committee has reviewed the Statement of Compatibility and considered the potential limitations to human rights imposed by the Bill. We are satisfied that the Bill is compatible with human rights and that the limitations are reasonable and demonstrably justified in all cases.

2.12 Regulation of raffles

While technically outside of the scope of the Bill, Cr Darren Grimwade raised an issue that independent candidates cannot lawfully hold a raffle with their supporters as they are not an 'eligible organisation' as defined in the *Charitable and Non-Profit Gaming Act 1999*.¹¹³

The definition for eligible organisation includes political parties, but not independent candidates. The impact is such that independent candidates may not fundraise, while politically-aligned candidates can. Cr Grimwade suggested legislative amendments to address this apparent discrepancy.¹¹⁴

2.12.1 Committee comment

Inquiry participants raised several matters that are outside the scope of the Bill including changes to local government voting arrangements, public election funding and donation caps. These are significant topics and we thank submitters for their views and direct readers to submissions and transcripts on our website for further information on these matters.

We do however feel that there is merit and opportunity to address the issue raised regarding the regulation of raffles simply and promptly, and have recommended that the Queensland Government consider this matter accordingly.

Recommendation 4

That the Queensland Government consider future legislative amendments to ensure that independent candidates in local government elections are not lawfully prevented from holding fundraising activities.

¹¹³ *Charitable and Non-Profit Gaming Act 1999*, section 10.

¹¹⁴ Cr Darren Grimwade, submission 6, p 1.

Appendix A – Indicative mayoral expenditure caps¹¹⁵

Council	No. of enrolled voters (2020 elections)	Indicative expenditure cap (based on 2020 elector numbers)
Band 1 - \$30,000 for areas with not more than 30,000 electors		
Aurukun Shire Council	810	\$30,000
Balonne Shire Council	2,907	\$30,000
Banana Shire Council	9,298	\$30,000
Barcardine Regional Council	2,067	\$30,000
Barcoo Shire Council	209	\$30,000
Blackall-Tambo Regional Council	1,420	\$30,000
Boulia Shire Council	250	\$30,000
Bulloo Shire Council	201	\$30,000
Burdekin Shire Council	12,002	\$30,000
Burke Shire Council	184	\$30,000
Carpentaria Shire Council	1,057	\$30,000
Cassowary Coast Regional Council	19,466	\$30,000
Central Highlands Regional Council	16,817	\$30,000
Charters Towers Regional Council	7,480	\$30,000
Cherbourg Aboriginal Shire Council	482	\$30,000
Cloncurry Shire Council	1,730	\$30,000
Cook Shire Council	2,542	\$30,000
Croydon Shire Council	167	\$30,000
Diamantina Shire Council	165	\$30,000
Doomadgee Aboriginal Shire Council	652	\$30,000
Douglas Shire Council	8,304	\$30,000
Etheridge Shire Council	558	\$30,000
Flinders Shire Council	1,158	\$30,000
Goondiwindi Regional Council	7,456	\$30,000
Hinchinbrook Shire Council	8,167	\$30,000
Hope Vale Aboriginal Shire Council	586	\$30,000
Isaac Regional Council	11,549	\$30,000
Kowanyama Regional Council	640	\$30,000
Livingstone Shire Council	26,427	\$30,000
Lockhart River Aboriginal Shire Council	377	\$30,000
Lockyer Valley Regional Council	26,545	\$30,000

Council	No. of enrolled voters (2020 elections)	Indicative expenditure cap (based on 2020 elector numbers)
Longreach Regional Council	2,475	\$30,000
Mapoon Aboriginal Shire Council	199	\$30,000
Maranoa Regional Council	8,612	\$30,000
Mareeba Shire Council	14,324	\$30,000
McKinlay Shire Council	522	\$30,000
Mornington Shire Council	615	\$30,000
Mount Isa City Council	11,221	\$30,000
Murweh Shire Council	2,783	\$30,000
Napranum Aboriginal Shire Council	564	\$30,000
North Burnett Regional Council	6,962	\$30,000
Northern Peninsula Area Regional Council	1,448	\$30,000
Palm Island Aboriginal Shire Council	897	\$30,000
Paroo Shire Council	1,105	\$30,000
Pormpuraaw Aboriginal Shire Council	453	\$30,000
Quilpie Shire Council	541	\$30,000
Richmond Shire Council	549	\$30,000
Scenic Rim Regional Council	29,879	\$30,000
Somerset Regional Council	17,076	\$30,000
South Burnett Regional Council	23,008	\$30,000
Southern Downs Regional Council	25,950	\$30,000
Tablelands Regional Council	17,623	\$30,000
Torres Shire Council	1,872	\$30,000
Torres Strait Island Regional Council	2,514	\$30,000
Western Downs Regional Council	22,292	\$30,000
Whitsunday Regional Council	22,219	\$30,000
Winton Shire Council	815	\$30,000
Woorabinda Aboriginal Shire Council	327	\$30,000
Wujal Wujal Aboriginal Shire Council	208	\$30,000
Yarrabah Aboriginal Shire Council	1,189	\$30,000

¹¹⁵ Department, tabled paper, 14 December 2022, pp 2-3.

Council	No. of enrolled voters (2020 elections)	Indicative expenditure cap (based on 2020 elector numbers)
Band 2 - a sliding amount of 1 dollar per elector for areas with 30,001 to 150,000 electors		
Gympie Regional Council	37,385	\$37,390
Noosa Shire Council	40,724	\$40,720
Gladstone Shire Council	41,313	\$41,310
Rockhampton Regional Council	54,858	\$54,860
Bundaberg Regional Council	68,897	\$68,900
Fraser Coast Regional Council	78,161	\$78,160
Mackay Regional Council	80,280	\$80,280
Cairns Regional Council	104,670	\$104,670
Redland City Council	110,412	\$110,410
Toowoomba Regional Council	115,153	\$115,150
Townsville City Council	128,601	\$128,600
Ipswich City Council	133,368	\$133,370

Band 3 - a sliding amount of \$150,000 plus an additional 50 cents per elector for each additional elector over 150,000 for areas with more than 150,000 but not more than 200,000 electors		
Logan City Council	196,035	173,020

Band 4 - a sliding amount of \$175,000 plus an additional 25 cents per elector for each additional elector over 200,000 for areas with more than 200,000 electors		
Sunshine Coast Regional Council	230,373	\$182,590
Moreton Bay Regional Council	306,121	\$201,530
Gold Coast City Council	387,913	\$221,980

Brisbane City Council		
Brisbane City Council	788,689	\$1,300,000

Appendix B – Indicative councillor candidate expenditure caps¹¹⁶

Council	No. of enrolled voters (2020 elections) ¹¹⁷	Indicative councillor expenditure cap (based on 2020 elector numbers)
Band 1 - \$15,000 for areas/divisions with not more than 20,000 electors		
Aurukun Shire Council	810	\$15,000
Balonne Shire Council	2,907	\$15,000
Banana Shire Council	1,576	\$15,000
Barcaldine Regional Council	2,067	\$15,000
Barcoo Shire Council	209	\$15,000
Blackall-Tambo Regional Council	1,420	\$15,000
Boulia Shire Council	250	\$15,000
Bulloo Shire Council	201	\$15,000
Bundaberg Regional Council	6,890	\$15,000
Burdekin Shire Council	12,002	\$15,000
Burke Shire Council	184	\$15,000
Cairns Regional Council	11,630	\$15,000
Carpentaria Shire Council	1,057	\$15,000
Cassowary Coast Regional Council	3,244	\$15,000
Central Highlands Regional Council	16,817	\$15,000
Charters Towers Regional Council	7,480	\$15,000
Cherbourg Aboriginal Shire Council	482	\$15,000
Cloncurry Shire Council	1,730	\$15,000
Cook Shire Council	2,542	\$15,000
Croydon Shire Council	167	\$15,000
Diamantina Shire Council	165	\$15,000
Doomadgee Aboriginal Shire Council	652	\$15,000
Douglas Shire Council	8,304	\$15,000
Etheridge Shire Council	558	\$15,000
Flinders Shire Council	1,158	\$15,000
Fraser Coast Regional Council	7,816	\$15,000
Goondiwindi Regional Council	7,456	\$15,000
Gympie Regional Council	4,673	\$15,000
Hinchinbrook Shire Council	8,167	\$15,000
Hope Vale Aboriginal Shire Council	586	\$15,000
Isaac Regional Council	1,441	\$15,000
Kowanyama Regional Council	640	\$15,000
Lockhart River Aboriginal Shire Council	377	\$15,000

Council	No. of enrolled voters (2020 elections) ¹¹⁷	Indicative councillor expenditure cap (based on 2020 elector numbers)
Logan City Council	16,336	\$15,000
Longreach Regional Council	2,475	\$15,000
Mapoon Aboriginal Shire Council	200	\$15,000
Maranoa Regional Council	14,324	\$15,000
Mareeba Shire Council	14,324	\$15,000
McKinlay Shire Council	522	\$15,000
Mornington Shire Council	615	\$15,000
Mount Isa City Council	11,221	\$15,000
Murweh Shire Council	2,783	\$15,000
Napranum Aboriginal Shire Council	564	\$15,000
North Burnett Regional Council	1,160	\$15,000
Northern Peninsula Area Regional Council	290	\$15,000
Palm Island Aboriginal Shire Council	897	\$15,000
Paroo Shire Council	1,105	\$15,000
Porpuraaw Aboriginal Shire Council	453	\$15,000
Quilpie Shire Council	541	\$15,000
Redland City Council	11,041	\$15,000
Richmond Shire Council	549	\$15,000
Rockhampton Regional Council	7,837	\$15,000
Scenic Rim Regional Council	4,980	\$15,000
Somerset Regional Council	17,076	\$15,000
South Burnett Regional Council	3,835	\$15,000
Tablelands Regional Council	2,937	\$15,000
Torres Shire Council	1,872	\$15,000
Torres Strait Island Regional Council	168	\$15,000
Townsville City Council	12,860	\$15,000
Whitsunday Regional Council	3,703	\$15,000
Winton Shire Council	815	\$15,000
Woorabinda Aboriginal Shire Council	327	\$15,000
Wujal Wujal Aboriginal Shire Council	208	\$15,000
Yarrabah Aboriginal Shire Council	1,189	\$15,000

¹¹⁶ Department, tabled paper, 14 December 2022, pp 4-5.

¹¹⁷ For divided councils, this number is an average of the number of electors across all divisions for the 2020 election.

Council	No. of enrolled voters (2020 elections)	Indicative councillor expenditure cap (based on 2020 elector numbers)
Band 2 – a sliding cap of 75 cents per elector for areas/divisions with more than 20,000 to less than 40,000 electors		
Western Downs Regional Council	22,292	\$16,720
Sunshine Coast Regional Council	23,037	\$17,280
Moreton Bay Regional Council	25,510	\$19,130
Southern Downs Regional Council	25,950	\$19,463
Livingstone Shire Council	26,427	\$19,820
Lockyer Valley Regional Council	26,545	\$19,910
Gold Coast City Council	27,708	\$20,780
Ipswich City Council	33,342	\$25,010

Band 3 - \$30,000 for areas/divisions with 40,000 or more electors		
Gladstone Regional Council	41,313	\$30,000
Mackay Regional Council	80,280	\$30,000
Noosa Shire Council	40,724	\$30,000
Toowoomba Regional Council	115,153	\$30,000

Brisbane City Council		
Brisbane City Council	30,334	\$55,000

Appendix C – Economics and Governance Committee Recommendations

The Economics and Governance Committee's *Report No. 47, 56th Parliament, Inquiry into the feasibility of introducing expenditure caps for Queensland local government elections* (Economics and Governance Committee report) made 7 recommendations:

1. That the definition of electoral expenditure in the Local Government Electoral Act 2011 be aligned with the definition in the Electoral Act 1992, subject to further consultation with stakeholders on relevant inclusions and exclusions.
2. That a sliding scale of electoral expenditure caps for Queensland local government elections be established with reference to the number of electors in the relevant ward/division or local government area, and including differentiation for mayoral and councillor candidates and divided and undivided councils where appropriate.
3. That further analysis and consultation with stakeholders be undertaken to determine caps of appropriate magnitude, with particular reference to the models proposed by the Department of Local Government, Racing and Multicultural Affairs and the Local Government Association of Queensland.
4. That further analysis and consultation be undertaken to determine an appropriate cap for third party electoral expenditure, and a system of third party registration be established to support the monitoring and enforcement of third party compliance with the established cap.
5. That electoral expenditure incurred by an associated entity for Queensland local government elections be treated as though it was incurred by the electoral participant with which the entity is associated.
6. That scheme penalties and recovery provisions be aligned with those for the state government electoral expenditure cap scheme under the Electoral Act 1992, and further consultation be undertaken on the potential prescription of scheme offences as integrity offences.
7. That the Department of Local Government, Racing and Multicultural Affairs coordinate with the Electoral Commission of Queensland to ensure election participants have access to a suite of informational resources and training to support their compliance with the established scheme.

The government submitted its response to the Economics and Governance Committee report in November 2020. The response supported the 7 recommendations in-principle, and proposed that an expenditure caps scheme should apply to both local government elections and by-elections, subject to consultation with stakeholders and additional policy analysis.¹¹⁸

¹¹⁸ Explanatory notes, p 3.

Appendix D – Submitters

Sub #	Submitter
001	Name Withheld
002	Electoral Commission Queensland
003	Confidential
004	Confidential
005	Cr Jenny Hill, Mayor of Townsville City Council
006	Cr Darren Grimwade
007	Redland City Council
008	Peregian Beach Community Association Inc.
009	Crime and Corruption Commission
010	Confidential
011	SEQ Community Alliance
012	Redlands2030 Inc.
013	Murray Elliott
014	Local Government Association of Queensland
015	Cr Jacob Heremaia
016	Cr Wendy Boglary
017	Australian Local Government Women's Association (Queensland Branch)
018	Organisation Sunshine Coast Association of Residents (OSCAR)
019	Wildlife Queensland (Wildlife Preservation Society Inc.) Gold Coast Branch
020	Queensland Council of Civil Liberties
021	Brisbane Residents United (BRU)
022	Gecko Environment Council Assn Inc.
023	Name Withheld
024	Queensland Law Society
025	Cr Adelia Berridge

Appendix E – Officials at public departmental briefing

Department of State Development, Infrastructure, Local Government and Planning

- Ms Bronwyn Blagoev, Executive Director, Strategy and Service Delivery
- Mr Jordan Watts, Director, Policy and Legislation
- Ms Catherine Barthet, Acting Manager, Legislation

Appendix F – Witnesses at public hearing

Local Government Association of Queensland (LGAQ)

- Ms Alison Smith, Chief Executive Officer
- Mr Nathan Ruhle, Lead – Intergovernmental Relations

SEQ Community Alliance

- Mr Chris Walker, President

Organisation Sunshine Coast Association of Residents (OSCAR)

- Ms Melva Hobson, President

Brisbane Residents United (BRU)

- Ms Elizabeth Handley, President

Councillors

- Cr Adelia Berridge, Redland City Council
- Cr Wendy Boglary, Redland City Council
- Cr Darren Grimwade, Moreton Bay Regional Council

Queensland Law Society

- Ms Chloé Kopilovic, President
- Mr Matt Dunn, General Manager – Advocacy, Governance and Guidance
- Ms Wendy Devine, Principal Policy Solicitor

Electoral Commission of Queensland

- Mr Wade Lewis, Assistant Electoral Commissioner
- Mr Matthew Thurlby, Acting Director, Funding, Disclosure and Compliance

Statement of Reservation

LNP Members of the State Development and Regional Industries Committee

The LGAQ has recommended a broad review of the expenditure caps scheme after the 2024 local government election, with the review including an examination of the expenditure caps scheme as it applies to undivided local government areas.¹ Undivided local governments are local government areas (LGAs) that do not have separate divisions or wards.

There are 77 LGAs across Queensland and 54 are undivided (approximately 70 per cent). Examples of undivided LGAs include Toowoomba, Southern Downs, Mount Isa, Western Downs, Noosa, Gladstone, Barcardine and Mackay.²

We are concerned that the expenditure caps will not be enough for council candidates campaigning in undivided LGAs, especially those that cover vast, remote areas in Queensland's regions.

The electoral expenditure of a candidate would be stretched across an entire LGA, rather focused on a specific ward or division, as is the situation with a divided LGA. Some large, undivided councils could have as many as 16 media markets when taking into account the many different local newspapers in the area.³

We also note that while the effort has been made to align the local government scheme with the State scheme, candidates for Queensland Parliament still have much higher spending caps available. An independent candidate for Queensland Parliament may spend up to \$90,748.65 in an electoral district, while a candidate endorsed by a party has their individual cap of \$60,449.10 plus their party's cap.⁴

This is considerably higher than the amounts available for local government candidates (with the exception of mayoral candidates) as indicated in the report's appendices.

As such, we recommend that the local government electoral expenditure cap amounts be reviewed when compared to the caps available for State Members of Parliament and taking into account the experiences for candidates in undivided LGAs.

During the committee's inquiry, we examined whether ECQ was sufficiently resourced to investigate complaints during a local government election. We are concerned that ECQ will not have the capacity to investigate alleged offences during an election, and that prosecution will occur after the election result.



Mr Jim McDonald MP
Deputy Chair
Member for Lockyer



Mr Michael Hart MP
Member for Burleigh

¹ Public hearing transcript, Brisbane, 31 January 2023, p 2.

² Local Government Regulation 2012, Schedule 1.

³ J McDonald MP, public briefing transcript, Brisbane, 14 December 2022, p 4.

⁴ Electoral Commission of Queensland, *Fact Sheet 28 – State elections: Expenditure Caps 2021 Update* available at: https://www.ecq.qld.gov.au/data/assets/pdf_file/0017/26081/Fact-sheet-28-NEW-Expenditure-Cap-Amounts-in-2021.pdf