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LOCAL GOVERNMENT (ELECTIONS) BILL 2014

Second Reading

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [9.31 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave not granted.

I am pleased to introduce the Local Government (Elections) Bill 2014. The bill demonstrates the Government's continuing commitment to further reducing the costs of local council elections, improving their administration and enhancing their democratic outcomes by removing barriers to voter participation. The reforms proposed in this bill are based on the recommendations made by the Joint Standing Committee on Electoral Matters in its report tabled in March this year arising from its inquiry into the 2012 local government elections. In its report the committee made 15 recommendations to improve the administration of council elections and to remove barriers to candidate and voter participation.

The recommendations have provided a powerful platform for the Government to build on its earlier reforms that saw the Local Government Act 1993 amended in 2011 to implement the Government's election commitment to return powers to councils to conduct their own elections. The 2011 amendments resulted in many councils being able to achieve significant savings in the administration of their elections in 2012. They also build on the reforms made by the recently enacted City of Sydney (Amendment) Elections Act 2014 to introduce to the City of Sydney the same model of non-residential enrolment used in the City of Melbourne. These reforms were designed to ensure that business and other non-residential voters in the City of Sydney are given a voice that is more proportionate to their contribution to that city. I seek leave to have the balance of my second reading speech incorporated in *Hansard*.

Leave not granted.

The proposed amendments contained in this bill and associated amendments to the regulation will allow business and other voters to give effect to that voice by increasing opportunities for all voters in the City of Sydney and eventually other council areas to exercise their vote by way of postal and pre-poll voting. The proposals contained in this bill may be grouped under two broad themes. The first group of amendments can be characterised as reforms that are designed to improve the administration of council elections and to reduce their costs. The second group of amendments are designed to remove barriers to voter participation at council elections.

I will now address each of the proposals in turn as they appear in the bill. The first proposal will allow councils the option of saving on the significant costs of holding a by-election to fill casual vacancies that arise in the first 18 months of their terms by instead using a count-back system similar to the one used in Victoria. I also note that the count-back system has been successfully used in a number of other jurisdictions. I seek leave to have the balance of my second reading speech incorporated in *Hansard*.

Leave granted.

The count-back election, to be conducted in accordance with a process to be prescribed under the regulations, will apply to a casual vacancy in the office of a councillor if:

- the casual vacancy occurs within 18 months after the date of the last ordinary election; and
- the council at its first ordinary meeting following that ordinary election has resolved that any such casual vacancy is to be filled by a count-back of votes cast at the last election for that office.

Count-backs will not be able to be used to fill vacancies in the offices of popularly elected mayors. Given the community leadership role of the mayor, it is important that the community be given the opportunity to elect a new mayor in such circumstances. Count-backs will also not be used where the original election was not contested.

Similarly, if a count-back election fails or the returning officer is otherwise unable to fill the casual vacancy by a count-back election, a by-election will be held to fill that vacancy.

All councils will potentially benefit from this proposal. In the 18 months following the 2012 local government elections, 15 councils were required to hold by-elections to fill vacancies.

To take two of these as an example, Hurstville City Council spent \$107,000 on its by-election and Singleton Council spent \$64,000. These resources are diverted from meeting councils' other commitments to their communities. The use of a count-back system therefore potentially delivers significant savings to councils.

Decisions on the administration of elections

The bill also seeks to promote realistic planning by councils for the administration of their elections.

Where a council intends to run its own election, rather than use the services of the Electoral Commissioner, it must 18 months before the election demonstrate to its community that it has the capacity to do so.

If a council decides that its general manager will administer the election, the council will be required to publish on its website a resolution advising of this decision. In addition, the resolution will inform voters of the following:

- Whether the general manager intends to administer the elections personally or to engage an electoral services provider to do so.
- If the general manager is to administer the elections personally, whether the general manager has identified any persons to be appointed as the returning officer and substitute returning officer and their names, and
- If the elections are to be conducted by an electoral services provider, the name of the provider.

Importantly, if a council fails to comply with the above requirements, the general manager will be required to publish a notice of that failure on the council's website.

This is designed to compel councils to carefully consider their capacity to administer their own elections, together with the associated risks prior to making a decision to do so. Importantly, they will be required to do so at a time when it will not be too late for them to resolve to engage the Electoral Commissioner to administer their election if they are unable to demonstrate this capacity.

Notably, councils will be required to demonstrate to their communities that they have the capacity to successfully administer their own election and will be accountable to those communities for any failure to do so.

Access to soft copy roll information

The next proposal in the bill is designed to assist councils who choose to administer their own elections and reduce the costs of doing so by requiring the Electoral Commissioner to provide the general manager of such councils with a printed and an electronic copy of the residential roll for the local government area concerned. Councils will pay for this service.

This proposal also addresses the potential privacy implications of providing access to electronic electoral roll information to councils administering their own elections.

In particular, the Electoral Commissioner will be obliged to only provide information in relation to the local government area of the council administering its own election. It will be an offence to use or disclose any information provided in a residential roll other than for the purpose of administering an election or to use or disclose any such information for a commercial purpose. The proposed offences will carry a maximum penalty of 1,000 penalty units, currently \$110,000.

Making the non-residential rolls permanent

The last two proposals are designed to reduce barriers to voter participation in council elections.

The first of these removes the requirement for non-residential electors to re-enrol after each ordinary local government election in order to vote at the next election.

Currently under the Local Government Act, each non-residential roll lapses after the election for which it is prepared. New rolls are to be prepared for each new election. However, under the current provisions, these are to consist only of the names of those non-residential voters who have re-applied for the inclusion of their names on the new rolls since the last election.

This serves as a significant barrier to non-residential voter participation in council elections, something that is reflected in the indefensibly low numbers of non-residential electors that were enrolled for each council at the last 2012 elections. Only 13 non-residential voters enrolled for Parramatta in 2012. In Newcastle eight non-residential electors were enrolled. In Liverpool and Fairfield this number was 28 and six respectively. This is a trend that is inconsistent with sound democratic outcomes.

The proposed amendments will mean that non-residential electors will no longer need to make the effort to re-enrol prior to each council election in order to exercise their vote. They provide that as soon as practicable after the non-resident rolls lapse, the general manager is to prepare new rolls and keep them updated, thereby making them available for inspection for a longer period than is currently the case.

The new rolls prepared by the general manager will include the names of the qualified persons who have applied, at any time, not just since the last election, for the inclusion of their names on the rolls.

The option of universal postal voting for the City of Sydney

The last proposal in the bill will enable the City of Sydney to determine that voting at its election will be conducted exclusively by means of postal voting instead of attendance voting. Again this will allow the City of Sydney to promote increased non-residential elector participation at its elections.

While the Joint Standing Committee recommended that all councils be given the option to conduct their elections by universal postal voting, this will require significant system updates by the Electoral Commission before it can provide this service to its client councils.

However, before the option of universal postal voting for all councils can be legislated, it will be important for the Electoral Commissioner, who will continue to be responsible for administering most councils' elections, to have the systems in place to support the implementation of this change. It is therefore proposed that this option be given to the City of Sydney now and extended to all councils in the future.

The benefits of universal postal voting to councils and communities in other jurisdictions in terms of cost and voter participation are compelling. For example, in Victoria in 2012, council elections conducted by way of universal postal voting had a turnout of 72.53 per cent compared to 63.62 per cent for other councils. The option of universal postal voting also reduces election costs. In Victoria, councils using universal postal voting were able to achieve savings exceeding 16 per cent.

It is further proposed to align the time at which the City of Sydney and other councils are required to make a decision on whether to conduct their elections by universal postal voting to the time they are required to make a final decision on the administration of their elections—that is, up to 18 months before the election—to assist councils to seek quotes. The council will also have the option of conducting individual by-elections, polls and constitutional referenda using postal voting.

Amendments to the Regulation

Many other recommendations made by the Joint Standing Committee that have been supported by the Government such as the removal of the qualification requirements for postal and pre-poll voting for elections for the City of Sydney will necessarily be achieved by way of amendments to the Local Government (General) Regulation 2005. In addition to these, substantial amendments are required to the regulation to prescribe procedures for the use of count-backs and universal postal voting. Work on this will commence shortly in close collaboration with the NSW Electoral Commission.

Conclusion

To conclude, the proposals in this bill, if passed, represent a further step in the reform journey that will ultimately see a comprehensive overhaul in the way council elections are conducted in this State.

Ultimately councils will benefit from these changes in terms of reduced costs and improved administration of council elections. Communities will also benefit from the improved democratic outcomes in terms of voter participation that the changes will deliver.

I commend the bill to the House.