

DRAFT

**Submission of Local Government New Zealand
on the
Local Electoral Bill**

February 2001

Introduction

Local Government New Zealand thanks the Committee for the opportunity to make submissions on the Local Electoral Bill.

The electoral process lies at the heart of the relationship between local authorities and the communities they serve. Local elections serve many purposes not the least of which are:

- a forum for communicating and debating community values and priorities
- the ultimate accountability for elected members. Local elections effectively serve as a triennial “performance review”.

A well run local election process should be:

- fair – everyone must have an equal chance to nominate and be nominated for election, and have equal say in the election of their representatives
- certain
- impartial
- understandable
- protect electors freedom of choice and secrecy in the vote
- capable of audit.

Local Government New Zealand warmly welcomes the introduction of the Local Electoral Bill, which will ensure that all local elections meet the above tests, and makes sure that local authorities can take advantage of the latest developments in vote processing technology and procedures.

STV Option (clauses 25-32)

Local Government New Zealand supports the reintroduction of the option to use STV at local elections, from 2004.

It is important to recognise that the Bill would not force any local authority to adopt STV – it merely provides the option for those who wish to use it. *Local Government New Zealand* has no position on which of FPP and STV is the best system – each has its good and bad points. Some of the acknowledged good points of STV are:

- it usually provides for proportional representation of voters choices
- it provides strong links between members and their constituencies
- enables independent and minority interests to compete for election with a greater chance of success than under FPP.

On the other hand STV elections do involve more processing of votes, so can be more costly to run than FPP elections, and STV as a system requires some initial investment in voter education.

The Choice is one for local communities to make

If the inclusion of poll provisions is necessary then *Local Government New Zealand* believes that the threshold of 5 percent is too low. Reorganisation proposals are triggered if the greater of 10 percent or 1500 electors want the proposal to proceed.

Recommendation

That clause 27 be amended to read

“specified number of electors, in relation to a local authority, means a number of electors equal to or greater than 10 percent of the number of electors eligible to vote or 1500, whichever is the greater.”

Dual Candidacy (clause 56)

The Bill rolls over the present provisions restricting dual candidacies for regional councils and territorial authorities, and extends these to cover candidacies for regional councils and community boards.

Both are strongly opposed. *Local Government New Zealand* believes that there should be no restriction on dual candidacy.

The rationale for banning dual candidacies is that it clarifies the different responsibilities of each type of local authority and avoids potential conflicts of interest which may occur if a person is a member of both a regional council and a territorial.

Local Government New Zealand agrees with this is a rationale for prohibiting joint membership, but is unconvinced that this is also a rationale for prohibiting joint candidacy.

The transparency that restrictions on dual membership promotes can be maintained by allowing joint candidacy, but requiring that any person elected to both a regional council and a constituent authority; should resign from one position. This, in effect is what occurs in Parliamentary elections where many MPs stand as constituency and list members, and are “dropped off” the list if they are successful in a constituency election.

Prohibiting dual candidacy goes against many of the principles that the Bill claims to promote, in particular it bars qualified people from standing for the council of their choice, it does not protect freedom of choice for the voter, and can deny communities effective representation.

Those who support the prohibition of dual candidacy argue that significant amounts of recounting will be required if successful candidates have to withdraw, and that voters will be confused if candidates have to withdraw. *Local Government New Zealand* agrees that each of these are valid points.

However, the cost of processing votes will be something that local communities take into account when deciding whether to switch to STV.

Any potential confusion on the part of voters can be avoided simply by requiring candidates to state as part of a candidate profile that they are seeking election in more than one authority, and what they intend to do if elected to more than one authority.

Recommendation

That:

- 1. clause 56 of the Bill be deleted.**
- 2. clause 59 be amended by adding a requirement for those standing for more than one office to indicate which office they will accept in the event they are elected to both.**

Deposits (clauses 53 and 57)

A deposit is a device for encouraging potential candidates to think seriously about the nature of the office they propose to seek and discouraging “frivolous” or “spoiler” candidacies. *Local Government New Zealand* believes the existing deposit of \$100 is a desirable compromise between ensuring that qualified candidates are not discouraged from standing and discouraging frivolous candidacy.

Local Government New Zealand believes that candidates withdrawing before election day on grounds other than health should forfeit their deposits. This may go some way towards discouraging “tactical” withdrawals.

Recommendation

That clause 57 be amended by deleting subclause (2)(a).

Candidate Profile Statements (clauses 59 and 60)

Local Government New Zealand welcomes the provisions allowing candidates to provide a short statement about themselves and their intentions to the local authority for “publication, display, or distribution”.

This is an excellent way of providing for equality of opportunity by ensuring that all electors receive at least some information about all of the candidates. To the extent that the candidates declare their intentions in the statement, it can also enhance accountability between elected members and their communities.

We also support the limits on the content of these statements, and the power given to electoral officers to return statements that do not comply and request their amendment.

It is highly likely that one or more candidates may dispute decisions that an electoral officer has made in this regard. In an election campaign there is no practicable opportunity for appeal or review of such decisions, we recommend that the Bill be amended to clarify that the electoral officers’ decision on those matters is final and is not subject to review or appeal.

Recommendation

That clause 59 be amended by adding a new subclause (4) which reads:

“Any decision made by an electoral officer in respect of the failure to comply with subsections (2) and (3) of this section is final and shall not be subject to review or appeal.”

Candidates Expenditure (clauses 97 – 107)

Local Government New Zealand supports the intention to restrict limits on candidates election expenditure. In doing so we must note that some local authorities and some individual elected members strongly oppose any restriction.

Local Government New Zealand sees the issue as one of equality of opportunity. One of our guiding principles is that “local government commits to being fully

representative of its communities . . .”. It is possible that the expense involved in standing for election deters low and middle income electors from standing for election. Extravagant campaign expenditure by some candidates may influence the results, especially if the election is “close”. Where this occurs the system has, however unwittingly, discriminated against candidates with low incomes or assets.

Local Government New Zealand supports a tiered limit based on population as the fairest means of determining limits.

However we would strongly recommend that the Committee increase the limits that have been set. Some rural authorities have quite correctly pointed out that the population in those areas is quite scattered and whereas city areas can be covered with a comparatively small number of hoardings and access to the mass media, rural areas require many more hoardings and other material because there is only limited access to the mass media. Given that the areas with low population densities all have populations of 40,000 or less we believe the expenditure limits that apply to these councils should be raised to the following levels:

Population up to 4999	\$3500
Population 5000 to 9999	\$7000
Population 10000 to 19999	\$14000
Population 20000 to 39999	\$20,000
Population 40000 to 59999	\$30,000
Population 60000 to 79999	\$40,000
Population 80000 to 149999	\$50,000
Population 150,000+	\$60,000

The requirement imposes an additional duty on electoral officers (chasing up returns, checking their accuracy) which imposes an additional cost to the ratepayer. As a compliance cost reduction initiative we recommend that the Bill be amended to only require a full return where a candidate spends \$1,000 or more on their campaign. Candidates that spend less than \$1,000 would be required to make a statutory declaration.

Recommendation

That:

- **section 104 be amended to alter the schedule of limits in the manner described above**
- **section 102 be amended by adding a new subsection (2)**

“A candidate who spends less than \$1,000 on his or her election campaign need only forward a statutory declaration to that effect to the electoral officer”.

Donations (section 102)

Local Government New Zealand believes that the frequency of donations of this size, in any local election, is so low that the cost of “policing” this requirement is not really justified.

In our view the provisions of the Bill may breach the Privacy Act, in that they require that local authorities to disclose the names and more particularly the addresses of donors.

The provisions are easily circumvented, for example, donations can be sent anonymously or interest groups may advertise on “issues” but take positions which are favourable to those of a particular candidate or candidates.

We recommend that the requirement to declare all donations of cash or goods of \$1000 or more be deleted.

Recommendation

That:.

- 1. clause 97 of the Bill be amended by deleting all references to “donations”.**
- 2. clause 102 be amended by deleting subclause1(c).**