

Local Government (Auckland Council) Amendment Bill (No 3)

Member's Bill

As reported from the Local Government and Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Local Government (Auckland Council) Amendment Bill (No 3) and recommends that it be passed with the amendments shown.

Introduction

The Local Government (Auckland Council) Amendment Bill (No 3) seeks to amend the Local Government (Auckland Council) Act 2009 (the principal Act) to prevent people from serving on more than one Auckland local board at the same time.

Purpose

We recommend deleting clause 4, which sets out the purpose of the bill. This is for technical reasons and would prevent the purpose clause (that does not amend the principal Act) from becoming orphaned in the amending Act when the bill was enacted.

Amendments to section 11 of the Local Government (Auckland Council) Act 2009

We recommend inserting a new section 11AA, which would state that no person may be a member of more than one local board at the same time.

We believe that the current wording of the bill creates uncertainty about candidates standing for multiple local boards. This wording could be interpreted to mean that the order that results are declared in determines which local board a person is elected to.

We recommend deleting clause 5(3), which seeks to amend section 11(4) of the principal Act. That clause is no longer required, because section 77 of the Local Government Act 2002 Amendment Act 2014 repealed section 11(4).

Existing membership of local boards

Supplementary Order Paper No 418 (SOP) would insert a new clause 6 to ensure that the existing membership of local boards is not affected. We considered this SOP and recommend that the substance of the amendment proposed in the SOP be incorporated into the bill as new Schedule 1AA.

Prioritisation of local boards

We recommend inserting a new section 11AAB into the principal Act. This would require candidates standing for multiple local boards to make a binding commitment before the election about which local board they would prioritise if they were elected to more than one local board. This would help prevent delays in election results.

New section 11AAB(3) would require candidates to provide a written notice to the electoral officer specifying the local boards they are seeking election to, and the ranking in order of priority that would apply if the candidate were elected to more than one local board.

A new section 11AAB(4) would require candidates to identify this priority and rankings in their candidate profile statement. This would ensure that electors are informed of candidates' preferences.

We also recommend inserting a new section 11AAC, which would outline what would happen if a candidate were elected to more than one local board. This specifically relates to how the rankings in the candidate profile statement would apply.

If a candidate is elected to multiple local boards, he or she will become a member of the local board that is ranked as a higher priority in his or her candidate profile statement. Positions on local boards ranked lower in the candidate profile statement would become vacant.

Prohibiting local board members from standing for by-elections

We recommend inserting a new section 11AAD(1), which would prohibit local board members from standing as a candidate for other local boards except in triennial elections.

This would prevent a sequence of by-elections caused by candidates moving between local boards through local board by-elections. This section would not apply if a general election of one local board were held at the same time as a general election of another local board.

Appendix

Committee process

The Local Government (Auckland Council) Amendment Bill (No 3) was referred to the Local Government and Environment Committee on 24 June 2015. The closing date for submissions was 13 August 2015. We received and considered 17 submissions from interested groups and individuals. We heard from four submitters.

We received advice from the Department of Internal Affairs.

Committee membership

Scott Simpson (Chairperson)

Matt Doocey

Paul Foster-Bell

Joanne Hayes

Tutehounuku Korako

Ron Mark

Todd Muller

Hon David Parker

Eugenie Sage

James Shaw

Meka Whaitiri

Alfred Ngaro was a member of the committee for this item of business.

**Local Government (Auckland Council) Amendment Bill
(No 3)**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Alfred Ngaro

Local Government (Auckland Council) Amendment Bill (No 3)

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government (Auckland Council) Amendment Act (No 3) **2014.**

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Local Government (Auckland Council) Act 2009 (the **principal Act**).

4 Purpose

The purpose of this Act is to prohibit candidates from serving on multiple local boards at the same time.

5 Section 11 amended (Membership of local boards)

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(1) In section 11(2)(b), replace “.” with “; and”.

(2) After section 11(2)(b), insert:

(e) must not serve as a member on 2 or more local boards at the same time.

(3) In section 11(4), replace “For the purposes of (2)(a) and (3),” with “For the purposes of **subsections (2)(a) and (c), and (3)**.”

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4 New section 4A inserted (Transitional, savings, and related provisions)

After section 4, insert:

4A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

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5 Section 11 amended (Membership of local boards)

In section 11(2)(a), after “accordance with” insert “this Act and”.

6 New sections 11AA to 11AAD inserted

After section 11, insert:

11AA Prohibition on membership of more than 1 local board

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No person may be a member of more than 1 local board at the same time.

11AAB Nominations for more than 1 local board

(1) This section applies if the electoral officer has accepted a candidate’s nomination for election to a local board.

(2) The electoral officer must not accept a nomination of that candidate for election to another local board unless that candidate has complied with the provisions of **subsection (3)**.

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(3) The candidate must, by written notice to the electoral officer,—

- (a) specify all local boards to which he or she is seeking election; and
- (b) for the purposes of **section 11AAC(2)**, rank each local board specified under **paragraph (a)** in order of the priority that will apply if the candidate is declared to be elected to more than 1 local board (the **rankings**).
- (4) If **subsection (3)** applies, the candidate must— 5
 - (a) submit a candidate profile statement for each local board election; and
 - (b) state in each candidate profile statement the rankings he or she had made under **subsection (3)**.
- (5) The information required under **subsection (4)(b)** does not count for the purposes of the word limit under section 61(2)(a) of the Local Electoral Act 2001. 10
- (6) In this section, **candidate profile statement** means a statement made in accordance with section 61 of the Local Electoral Act 2001.

11AAC What happens if a person is elected to more than 1 local board

- (1) This section applies if—
 - (a) **section 11AAB(3)** applies; and 15
 - (b) a person is declared to be elected to more than 1 local board (and remains so elected despite any recount under section 92 of the Local Electoral Act 2001 or petition under section 93 of that Act).
- (2) The person declared to be elected must be treated as having vacated office as a member of any local board that is ranked lower, in the notice given under **section 11AAB(3)**, than another local board to which he or she is declared elected. 20
- (3) Sections 88B to 88E of the Local Electoral Act 2001 apply, with any necessary modifications, to any office treated as vacated under **subsection (2)** as if that office were treated as vacated under section 88A(2) of that Act. 25
Compare: 2001 No 35 s 88A

11AAD Prohibition on candidacy for local board

- (1) No member of a local board (**LB1**) may be a candidate for election as a member of another local board (**LB2**).
- (2) **Subsection (1)** does not apply if a general election of members of LB1 is to be held at the same time as an election of members of LB2. 30
Compare: 2001 No 35 s 58AA

7 New Schedule 1AA inserted

Before Schedule 1, insert the **Schedule 1AA** set out in the **Schedule** of this Act. 35

Schedule
New Schedule 1AA inserted

s 7

Schedule 1AA
Transitional, savings, and related provisions

5

s 4A

Existing membership of local boards not affected

Nothing in **section 11AA** affects the current membership of any person who is a member of more than 1 local board at the commencement of the Local Government (Auckland Council) Amendment Act (No 3) **2014**.

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Legislative history

20 February 2014
24 June 2015

Introduction (Bill 190–1)
First reading and referral to Local Government and Environment
Committee