



## Legislative Statement for the First Reading of the LOCAL GOVERNMENT ELECTORAL LEGISLATION BILL

*Presented to the House of Representatives in accordance with Standing Order 272*

The Local Government Electoral Legislation Bill is an omnibus Bill introduced under Standing Order 267(1)(a): dealing with an interrelated topic that can be regarded as implementing a single broad policy.

The single broad policy and purpose of the Bill is to improve the processes by which individuals and communities are represented through, and can participate in, local government elections.

The Bill makes changes relating to:

- how councils consider specific Māori representation (Māori wards and Māori constituencies);
- the membership restrictions on the Auckland Council governing body;
- how local board area boundaries may be amended;
- recount processes when an election is tied; and
- more flexibility for candidates to submit nomination documents.

The Bill amends the Local Electoral Act 2001, the Local Government Act 2002 and the Local Government (Auckland Council) Act 2009. It also makes consequential amendments to the Local Electoral Regulations 2001 and the Bay of Plenty Regional Council (Māori Constituency) Empowering Act 2001.

### **Māori ward and Māori constituency processes**

Māori wards and Māori constituencies provide for direct representation at local government of electors on the Māori electoral roll. The Government has been working to improve the processes for councils to consider introducing Māori wards. The Local Electoral (Māori Wards and Māori Constituencies) Amendment Act was passed in February 2021. As a result of the changes in that Act, 35 councils will have Māori wards or Māori constituencies at their next local government elections.

This Bill completes the Government's reforms to Māori ward and Māori constituency processes. The proposals in the Bill came out of public consultation (including with local authorities) in July and August 2021.

The Bill aligns and sequences the decisions councils must make regarding specific Māori representation and the establishment of wards or constituencies for the representation of individuals and communities. The Bill provides that all decisions related to representation, including Māori representation, will be made as part of the representation review.

Decisions must be made in two steps. The first step is for the council to consider specific Māori representation. Next, the council must make detailed decisions about the implementation of representation arrangements. These detailed decisions include: the total number of councillors, arrangements for ward/constituency or at-large councillors (including names and boundaries of wards/constituencies), and arrangements for local or community boards.

The Local Government Commission has oversight over the second stage of decision-making. This continues the current role of the Commission and provides that first-step decisions are made locally by councils on behalf of their communities.

Community engagement and consultation are required in each step of decision-making and the Bill adjusts the timing of the representation review process to support engagement and decision-making processes. Once councils have implemented specific Māori representation for two elections, they may choose to either review specific Māori representation or move directly to the second step.

### **Auckland Council membership restrictions**

Auckland Council is currently restricted to 20 councillors not including the mayor. The Bill aligns the Auckland Council membership restrictions with those of all other councils. The Bill provides that Auckland Council may set its own size through a representation review and may consider between 5 and 29 councillors (not including the mayor).

This change supports Auckland Council to grow with its population and to consider specific Māori representation in the same way as all other councils (i.e., either by adding new positions or by replacing existing positions – Auckland Council can currently only replace existing positions).

### **Local board boundary alteration processes**

Unitary authorities can have local boards as part of their governance structure. Local boards provide local leadership, make local decisions, and contribute local perspectives to regional strategies, plans and decisions. Auckland Council is currently the only unitary authority with local boards.

The process to alter local board boundaries is complex. This reflects that this process was originally designed for the alteration of boundaries between different council areas. When changes are being made within a single council area, some steps are not needed.

The Bill proposes two simplified processes to change local board boundaries. Both processes require community consultation and are subject to Local Government Commission oversight.

The Bill enables some local board boundary alterations to be made as part of the council's representation review. These alterations will be subject to population transfer limits that will be set out in regulations.

The Bill enables more significant local board boundary alterations to be made through a streamlined process based on the process for altering boundaries between councils.

### **Recount processes when elections are tied**

These changes respond to the events at two council elections in 2019, where judicial recounts resulted in a change to council membership after the elected members had been sworn in. This was a challenging situation for the candidates, communities and councils involved.

So that similar events can be avoided in future, the Bill establishes that:

- if an election is tied in the final results, there will be a mandatory judicial recount;
- if an election is tied after a mandatory judicial recount, an affected candidate may withdraw from the election (within a withdrawal period set by the electoral officer);
- if an election is still tied after the withdrawal period, the election will be determined by lot (for example, a coin toss); and
- the council will not meet until there is a clear result (unless the chief executive determines that there is urgent business to consider, and in this case candidates whose election may be affected by the recount will not participate in the meeting).

The Bill is likely to come into force while local authority by-elections are underway. It includes transitional provisions so that the new recount processes do not come into effect in those districts or regions holding by-elections if nominations have closed on the day the Bill comes into force, to preserve consistent rules during an election.

### **Flexible (electronic) nomination processes**

It is a requirement that candidate nominations are provided in writing to the electoral officer. This requirement may be waived by the electoral officer for candidates who are overseas.

The Bill extends this flexibility to candidates within New Zealand to support the use of electronic nomination processes.

This amendment responds to recommendation 29 of the Justice Committee's report on its Inquiry into the 2017 General Election and 2016 Local Elections.