



**THIRTY-SEVENTH PARLIAMENT**

**REPORT 8**

**STANDING COMMITTEE ON ENVIRONMENT AND  
PUBLIC AFFAIRS**

**LOCAL GOVERNMENT AMENDMENT BILL (No. 2)  
2006**

Presented by Hon Louise Pratt MLC (Chair)

April 2007

## STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

### Date first appointed:

17 August 2005

### Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

#### “1. Environment and Public Affairs Committee

- 1.1 *An Environment and Public Affairs Committee* is established.
- 1.2 The Committee consists of 5 members.
- 1.3 The functions of the Committee are to inquire into and report on -
  - (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;
  - (b) any bill referred by the House; and
  - (c) petitions.
- 1.4 The Committee, where relevant and appropriate, is to assess the merit of matters or issues arising from an inquiry in accordance with the principles of ecologically sustainable development and the minimisation of harm to the environment.
- 1.5 The Committee may refer a petition to another committee where the subject matter of the petition is within the competence of that committee.
- 1.6 In this order “**environment**” has the meaning assigned to it under section 3(1), (2) of the *Environmental Protection Act 1986*.”

### Members as at the time of this inquiry:

Hon Louise Pratt MLC (Chair)

Hon Paul Llewellyn MLC

Hon Bruce Donaldson MLC

Hon Robyn McSweeney MLC

(Deputy Chairman)

Hon Kate Doust MLC

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## **Abbreviations**

Bill	Local Government Amendment Bill (No. 2) 2006
CEO	Chief Executive Officer
Committee	Standing Committee on Environment and Public Affairs
CTV	Continued Transfer Value
DLGRD	Department of Local Government and Regional Development
FPP	First-past-the-post
LGAB	Local Government Advisory Board
LGMA	Local Government Managers Association
MMP	Multi member plurality
original bill	Local Government Amendment Bill 2006
PV	Preferential vote
PR	Proportional representation
PR-STV	Proportional representation single transferable vote
SA	South Australia
SMP	Single member plurality
UK	United Kingdom
USA	United States of America
STV	Single transferable vote
VEC	Victorian Electoral Commission
WA	Western Australia
WAEC	Western Australian Electoral Commission
WIGM	Weighted Inclusive Gregory Method
WALGA	Western Australian Local Government Association



## **Glossary and Definition of Terms Used**

Ballot structure	The nature and degree of choice available to the elector when marking the ballot paper. The basic distinction is between categorical ballots, where electors are given an either/or choice and ordinal ballots, where the electors can rank order candidates in order of preference.
District magnitude	District magnitude is the size of the constituency in terms of numbers of members to be elected. Single member plurality and majoritarian electoral systems have a district magnitude of one, while the proportional systems have district magnitudes greater than one.
Electoral system	Electoral systems determine the means by which votes are translated into representative seats or municipal office for local government elections.
Majority electoral system	A majority electoral system is one which requires candidates to gain a majority of votes before they are elected.
Plurality electoral system	Plurality (also known as first-past-the-post) is a non-majoritarian system that relies on the person with the highest number of votes being declared the winner.
Preferential voting	Preferential voting is the term used in Australia to describe the majoritarian electoral system that is employed in elections for the House of Representatives and all State lower houses in Australia, apart from the Tasmanian House of Assembly and the A.C.T. Legislative Assembly. Under this system a candidate needs to gain an absolute majority to gain office - that is 50 per cent of the votes plus one.
Proportional representation	Proportional representation refers to a family of electoral systems with the objective of allocating the positions for office as near as possible in proportion to the votes received. It is applied in multi-member electorates.
PR-STV	Proportional representation single transferable vote systems are one of two families of proportional representation. PR-STV is based on the idea that the range of public opinion should reflect as close as possible the composition of the representative assembly or municipal chamber. PR-STV rests on the assumption that the electors can choose between candidates rather than parties.



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**RECOMMENDATION FOR THE**  
**REPORT OF THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS**  
**IN RELATION TO THE**  
**LOCAL GOVERNMENT AMENDMENT BILL (No. 2) 2006**

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**RECOMMENDATION**

- 1 Recommendations are grouped as they appear in the text at the page number indicated:

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**Recommendation 1: The Committee, by a majority (comprising Hons Louise Pratt, Kate Doust and Paul Llewellyn MLCs) recommends that the Local Government Amendment Bill (No. 2) 2006 be passed without amendment.**

- 2 A minority of the Committee comprising Hons Bruce Donaldson and Robyn McSweeney MLCs do not support the recommendation for a number of reasons, which are outlined at paragraph 7.3 on page 43 below.



## REPORT OF THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

### IN RELATION TO THE

### LOCAL GOVERNMENT AMENDMENT BILL (NO. 2) 2006

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#### 1 REFERENCE AND PROCEDURE

- 1.1 On 23 November 2006, the Legislative Council agreed to divide the Local Government Amendment Bill 2006 (**original bill**) into two separate bills. The first, upon assent, became the *Local Government Amendment Act 2006*.<sup>1</sup> That Act formalised the widely agreed provision to change the date for ordinary local government elections to the third Saturday in October.<sup>2</sup>
- 1.2 The second, the Local Government Amendment Bill (No. 2) 2006 (**Bill**), was referred to the Standing Committee on Environment and Public Affairs (**Committee**) for inquiry and report no later than 3 April 2007.
- 1.3 On a motion of referral by Hon Paul Llewellyn MLC the Legislative Council resolved that:
- (1) *The order of the day on the Local Government Amendment Bill (No. 2) 2006 be discharged and the bill be referred to the Standing Committee on Environment and Public Affairs for consideration and report not later than Tuesday, 3 April 2007.*
  - (2) *The committee*
    - (a) *is to examine the impact of the bill on the management and operation of local government elections; and*
    - (b) *has the power to consider the policy of the bill.*<sup>3</sup>
- 1.4 The above resolution established the terms of reference for this inquiry and the procedural requirement for this report.

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<sup>1</sup> Act No 66 of 2006, as assented on 8 December 2006.

<sup>2</sup> Section 4.7, *Local Government Act 1995*.

<sup>3</sup> Hon Paul Llewellyn MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 23 November 2006, p8754.

## 2 INQUIRY PROCESS

- 2.1 The Committee advertised for written submissions in *The West Australian* on 16 December 2006. The Committee also wrote to key stakeholders including 144 local government authorities; the Western Australian Local Government Association (**WALGA**); the Local Government Managers Association (**LGMA**); the Local Government Advisory Board (**LGAB**) and the Department of Local Government and Regional Development (**DLGRD**) inviting them to make a submission.
- 2.2 The Committee received 116 written submissions which were mainly from local government authorities. A list is attached at Appendix 1.
- 2.3 From the 116 submissions received there were 78 (mostly from local government authorities) that opposed the Bill, 35 submissions (mainly from individuals) that supported the Bill, and there was one information submission from the DLGRD.<sup>4</sup>
- 2.4 One submission by a local government authority included a copy of electronic correspondence that WALGA had sent to all local governments on 18 December 2006. That correspondence encouraged each local government to make written submissions to the Committee. The correspondence by WALGA included an overview setting out the details of the Committee and a discussion of the main points argued by the WALGA during its “*campaign to have the proposal defeated*”.<sup>5</sup>
- 2.5 The Committee noted that many of the submissions from the local government authorities were in similar terms to WALGA’s submission to this inquiry.
- 2.6 The Committee believed that WALGA’s campaign helps explain both the majority of submissions received from the local government authorities and the similarities of the issues raised in those submissions.
- 2.7 The Committee held public hearings on 15 and 16 January 2007. A list of witnesses that appeared before the Committee is attached at Appendix 2.
- 2.8 The Committee was particularly mindful that many local government authorities do not meet in January and it extended the deadline for submissions to 23 February 2007. The Committee informed WALGA of this during the hearing, along with the fact that the Committee would have to apply to the Legislative Council for an extension to the reporting date of 3 April 2007, should it require more time.

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<sup>4</sup> Two local governments availed of the opportunity to send in a second submission as a result of the second letter sent out by the Committee (see paragraph 2.9). Those extra two submissions make up the 116.

<sup>5</sup> Submission No 55 from the Shire of Nannup, 30 January 2007, Attachment 2.

- 2.9 The Committee sent out another letter to the 144 local governments on 19 January 2007 inviting each one to make a written submission. The letter also contained information that the deadline for submissions had been extended to 23 February 2007.
- 2.10 WALGA along with some of the rural and regional local governments and others requested the Committee to hold regional hearings to “*facilitate Local Government submissions*”.<sup>6</sup>
- 2.11 The Committee noted, however, that those local government authorities had clearly stated their positions in their submissions. The Committee believed that it would be more beneficial to concentrate its efforts on providing as much clarification about the proposed electoral systems in the report as time permitted.
- 2.12 The Committee thanks the individuals and organisations that provided evidence and information for the inquiry.

### **3 BACKGROUND TO THE BILL**

- 3.1 In October 2005 the former Minister for Local Government and Regional Development, Hon John Bowler MLA, announced that a review of structural and electoral reform of local government in Western Australia (WA) would be undertaken by the LGAB.<sup>7</sup>
- 3.2 The Committee understands that the review was driven to a large extent by the need to ensure the future economic, environmental and social sustainability of local governments and communities in WA.
- 3.3 The LGAB’s Report, as required by the reviews terms of reference, focused on the two issues of structural and electoral reform.<sup>8</sup> The Report focused primarily on structural reform in the context of sustainability.
- 3.4 One aspect, in the reviews terms of reference related to the electoral system, which stated that:

*Recommendations should address whether the current system of ‘first past the post’ voting should be maintained, or whether preferential or proportional representation should be introduced.*<sup>9</sup>

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<sup>6</sup> Submission No 19 from WALGA, 16 January 2007; Submission No 29 from the City of Albany 11 January 2007; Submission no 36 from the City of Kalgoorlie-Boulder, 19 January 2007; and Submission No 42 from the Shire of Yilgarn 23 January 2007.

<sup>7</sup> Hon John Bowler MLA, ‘Local government review to seek efficiencies’, *Media Release*, 4 October 2005.

<sup>8</sup> LGAB, *Local Government Structural and Electoral Reform in Western Australia: Ensuring the future sustainability of communities*, Perth, April 2006 pp1–2.

<sup>9</sup> *Ibid*, p2.

- 3.5 The LGAB reported in April 2006, and in Chapter 15 provided a brief explanation of the different electoral systems. The LGAB recommended “*that the current provisions for the ‘first past the post’ system of voting be retained*”.<sup>10</sup>
- 3.6 In addition to changing the election date to October, the original bill also provided for the removal of plurality voting for local government which is colloquially known as ‘first-past-the-post’ (**FPP**). The bill sought to replace plurality voting with the introduction of the proportional system of voting as used by the Legislative Council.
- 3.7 The proposed changes to the electoral system were not detailed in the original bill and were to be prescribed in the regulations.
- 3.8 Schedule 4.1 of the original bill read as follows:

*Schedule 4.1 – How to count votes and ascertain the result of an election*

1. *Legislative Council electoral system to be used*

(1) *In this clause –*

*“commencement day” means the day on which the Local Government Amendment Act 2006 comes into operation;*

*“election in a region” has the meaning given to that term in the Electoral Act 1907 section 4(3).*

(2) *The system to be used for counting votes in, and ascertaining the results of, an election is to be based on the method that, at the commencement day, the Electoral Act 1907 provides for an election in a region.*

2. *Details of the system*

***The details of the system are to be described in the regulations*** (Committee’s emphasis added).<sup>11</sup>

- 3.9 It was unclear under the original bill, which electoral system was to be applied for local government elections as both the proportional and preferential terms were used during the second reading speech debates in Parliament.

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<sup>10</sup> *Ibid*, p175.

<sup>11</sup> Local Government Amendment Bill 2006.

3.10 Hon Jon Ford MLC stated during the second reading speech that:

*The bill also provides for the removal of the first-past-the-post system and the inclusion of the same system that applies for the State Parliament. For both single member and multi-member electorates, the system will be based on the proportional system applying for elections for the Legislative Council.*<sup>12</sup>

3.11 The Explanatory Memorandum to the original bill did not provide the necessary clarity on the specific electoral systems, or the counting methods to be used, as the explanation for clause 16 of the original bill demonstrates:

*Schedule 4.1 provides for the method used to count votes and ascertain the result of an election.*

*Schedule 4.1 is repealed and replaced with a new Schedule 4.1 to set out a system whereby both single and multi member electorates will be based on the system applying for the Legislative Council. The proposed amendment will provide greater uniformity in the method of voting used for State, Commonwealth and local government elections.*

*Provisions setting out the details will be included in the Regulations.*<sup>13</sup>

3.12 The principal underpinning the electoral system used to elect members to the Legislative Council is proportional representation (**PR**) which is only applied for counting votes in multi-member electorates.

3.13 The reference to single-member electorates being based on the system applying for the Legislative Council was incorrect and may have been a significant contributing factor to the initial confusion.

#### **4 BRIEF SYNOPSIS OF THE BILL**

4.1 The Bill itself now provides details of the electoral systems for local government elections, rather than leaving the details to regulations and the Committee believes that this is an improvement on the original bill.

4.2 Division 2 of proposed Schedule 4.1 contained in clause 5 of the Bill applies preferential voting for one office elections when there are three or more candidates.

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<sup>12</sup> Hon Jon Ford MLC, Minister for Local Government and Regional Development, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 26 October 2006, p7748.

<sup>13</sup> Local Government Amendment Bill 2006 Explanatory Memorandum.

- 4.2.1 Division 2 also provides for a one office election, if there are only two candidates. In such circumstances the candidate with the greatest number of votes is elected.
- 4.3 Division 3 of proposed Schedule 4.1 contained in clause 5 of the Bill applies a system of proportional representation for multi-office elections.<sup>14</sup>
- 4.4 The requirement for marking the ballot paper will be the same for all local government elections in WA.

## 5 ELECTORAL SYSTEMS

- 5.1 The Committee considered it necessary to review the three different electoral systems presently used in Australia. These are plurality voting (either single or multi-member), preferential voting and a system of proportional representation.
- 5.2 Electoral systems are the set of procedures that determine how people are elected to office. The procedures include how the ballot is structured, how people cast their votes, how the votes are counted, and how the winners are decided.<sup>15</sup>
- 5.3 The ballot structure determines how the electors cast their votes. The distinction here is between categorical ballots, where electors are given an either/or choice, and ordinal ballots where the electors can rank order candidates in order of preference.
- 5.4 The electoral formula manages the translation of votes into seats. There are a large range of electoral formulas, which can however, be broken down into three main families. These are plurality, majority and proportional.<sup>16</sup>
- Plurality is a non-majoritarian system that relies purely on the greatest number of votes.
  - Majority requires an absolute majority of votes – at least 50 per cent plus one.
  - Proportional aims for political representation to be as close as possible to a reflection of the actual votes cast.
- 5.5 A slight variation of the common definition used in the literature for electoral systems for the purpose of this report is: “*Electoral systems determine the means by which*

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<sup>14</sup> An explanation of proportional representation, the single transferable vote, how to calculate the quota and the method for transferring surplus votes is provided in some detail later in the report (see paragraph 5.53 – 5.126).

<sup>15</sup> Douglas Amy, *Behind the Ballot Box: A citizen's guide to voting systems*, Praeger Publishers, Westport, Connecticut, 2000, p1.

<sup>16</sup> David Farrell, *Electoral Systems: A comparative introduction*, Palgrave, Houndmills, Basingstoke, Hampshire, 2001, p6.



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*votes are translated into representative seats or municipal office for local government elections”.*<sup>17</sup>

- 5.6 There are many different electoral systems all of which can be applied differently in specific countries although those differences are sometimes subtle.
- 5.7 Electoral systems are often thought of as complicated and not well understood. Arend Lijphart, Research Professor Emeritus of Political Science (University of California), provides the following explanation for this confusion:

*One of the reasons for the unnecessary confusion surrounding electoral systems is that both electoral engineers and students of electoral systems have used confused terminologies – with the same term sometimes being used for different practices and the same practice referred to by different terms.*<sup>18</sup>

- 5.8 The Committee noted the following comments by Dr Harry Phillips, Parliamentary Fellow (Education), Adjunct Professor (Curtin University), Adjunct Professor (Edith Cowan University), while giving evidence to this inquiry and which are indicative of some of the problems surrounding the original bill. The comments also demonstrated the need for clear and consistent terminology to describe the specific electoral systems contained in the Bill:

*Dr Phillips: I have been following the debates in the Parliament and I must say I was a little bit perplexed because when the second reading commenced, the minister spoke about “proportional preferential”. I have looked at electoral systems for 30 or 40 years and proportional preferential seems to be a combination of two systems. There is preferential voting, which we have at state and federal level; it is often called preferential voting. A better term is probably “alternative vote”, in which a voter casts preferences and, in a single-member constituency, the member who wins 50 per cent plus one of the votes is declared elected. That differs from proportional representation, of which there are two main forms: a list form and a transfer vote form.*<sup>19</sup>

- 5.9 The Committee reviewed the term ‘proportional-preferential’ which was used during much of the second reading speech debate on the Bill and in most of the submissions for this inquiry.

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<sup>17</sup> *Ibid*, p4.

<sup>18</sup> Arend Lijphart, *Electoral Systems and Party Systems: A study of twenty-seven democracies, 1945–1990*, Oxford University Press, New York, 1994, p2.

<sup>19</sup> Dr Harry Phillips, Parliamentary Fellow (Education), Legislative Assembly; Adjunct Professor, Edith Cowan University and Curtin University of Technology, *Transcript of Evidence*, 15 January 2007, p1.

- 5.10 The Committee noted that the term is not used in any other jurisdiction, fails to provide any clarity, and only contributes to confusion in relation to the electoral systems contained in the Bill. The Committee also noted that the LGAB used the accepted terms in Australia, namely preferential voting and proportional representation, in its Report.<sup>20</sup>
- 5.11 The term ‘proportional-preferential’ is not mentioned anywhere in the Bill and the Committee believes that its use should be avoided in order to provide clarity.
- 5.12 The Committee considered it beneficial to tabulate the electoral systems that apply when electing local governments’ in the other States of Australia. The Committee noted the relative consistency with both the electoral systems and the terms used to describe them in the other states.

**Table 1**

**Summary of the Electoral Systems for Local Government in the other States of Australia**

<b>New South Wales</b>	<b>Victoria</b>	<b>Queensland</b>	<b>South Australia</b>	<b>Tasmania</b>
Compulsory voting for electors who are enrolled on the State electoral roll.	Compulsory for residents who are on the voters roll for local council elections.	Compulsory voting.	Voluntary voting.	Voluntary voting.
Electors are not required to number every box.	Electors are required to number every box.	Electors are not required to number every box.	Electors are required to number to at least the number of vacancies.	Electors are not required to number every box.
Preferential count (50% + 1) if the number of Councillors to be elected is one or two.  Proportional representation if	Preferential count (50% + 1) for single-office elections.  Proportional representation for multi-member wards	Preferential count (50% + 1) for single-office elections.  Plurality voting (FPP) for multi-member wards and entire	Proportional representation was introduced in 2000 for all local council elections.  In practice, however, the	Preferential count (50% + 1) for single-office elections (eg Mayors and Deputy Mayors).  Proportional

<sup>20</sup> LGAB, *Local Government Structural and Electoral Reform in Western Australia: Ensuring the future sustainability of communities*, Perth, April 2006, p2.

<b>New South Wales</b>	<b>Victoria</b>	<b>Queensland</b>	<b>South Australia</b>	<b>Tasmania</b>
the number of Councillors to be elected is three or more.	and entire districts.	districts.	count for single-office elections reverts to preferential (50% + 1) in some cases.	representation for Councillors. The Hare-Clark system is used.
Under proportional representation, above and below the line (ticket voting) is permitted.				
Whole Council Elections held every four years.	Whole Council Elections held every four years from 2008.	Whole Council Elections held every four years.	Whole Council Elections held every four years.	Half-Council elections every two years.

5.13 Compulsory voting was regularly raised during the taking of evidence. While the topic was not part of the Committee's terms of reference, the Committee noted that New South Wales (NSW), Victoria and Queensland have compulsory voting for local government elections.

#### **Single and multi member plurality voting – first-past-the-post**

5.14 Plurality voting systems have many titles including 'relative majority', 'simple majority', 'single-member simple plurality', and as stated previously FPP.

5.15 While plurality voting can apply to both single and multi-member elections, Professor David Farrell, head of politics at the University of Manchester, maintains that the term single member plurality best reflects the essence of the system.<sup>21</sup>

5.16 Single member plurality is more widely used than multi member plurality<sup>22</sup> although the latter is more likely to be applied in local municipal elections than in the election of seats for national office.<sup>23</sup>

<sup>21</sup> David Farrell, *Electoral Systems: A comparative introduction*, Palgrave, Houndmills, Basingstoke, Hampshire, 2001, p19.

<sup>22</sup> Multi member plurality is also known as the 'block vote'.

- 5.17 The supporters of plurality systems invariably refer to its simplicity and ease of understanding to highlight its benefits. The candidate with the highest number (a plurality) of votes is elected.
- 5.18 The elector usually only has to mark a tick or a cross in the box next to their candidate(s) of choice. For some multi member vacancies the elector may be permitted to number the candidates 1 to 6, in the example of 6 vacancies, as the elector is only given as many votes as there are vacancies to be filled.
- 5.19 In Queensland municipal elections, multi member plurality is applied for electing Councillors in multi-member wards, and numerical voting is permitted but each number on the ballot paper is treated as an equal value.<sup>24</sup>
- 5.20 The principal characteristic of single member plurality is that it incorporates single-member constituencies or a district magnitude of one. Farrell uses, as an example, the United Kingdom (UK), which is divided into 659 constituencies each electing one Member of Parliament. He then goes on to state:
- This is the central feature distinguishing proportional and non-proportional systems. Single-seat constituencies do not produce proportional results, as shown by the fact that there are large numbers of voters who do not support the winning candidate.*<sup>25</sup>
- 5.21 In addition to the UK, single member plurality is used for elections in the United States of America (USA), Canada, India, Pakistan, Thailand, and Zambia.
- 5.22 Single member plurality was adopted in Australia with the first *Commonwealth Electoral Act of 1902* (Cth). It was replaced in 1918 with the introduction of preferential voting for elections to the House of Representatives.<sup>26</sup> Multi member plurality was replaced by proportional representation for Australian Senate elections in 1948.
- 5.23 Single member plurality and multi member plurality has been replaced by either preferential voting or proportional representation for local government elections in the majority of States in Australia.

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<sup>23</sup> According to Farrell, multi member plurality is used in the following elections: the Palestinian Authority; Bermuda; Fiji; Laos; the US; Virgin Islands; Thailand; the Maldives; Kuwait; the Philippines and Mauritius. See, David Farrell, *Electoral Systems: A comparative introduction*, Palgrave, Houndmills, Basingstoke, Hampshire, 2001, p45.

<sup>24</sup> Section 355, *Local Government Act 1993* (Qld).

<sup>25</sup> David Farrell, *Electoral Systems: A comparative introduction*, Palgrave, Houndmills, Basingstoke, Hampshire, 2001, p21.

<sup>26</sup> David Farrell and Ian McAlister, *The Australian Electoral System: Origins variations and consequences*, University of New South Wales, Sydney, 2006, p21.

- 5.24 Single member plurality and multi member plurality have been applied in WA local government elections since 1 July 1996, when the *Local Government Act 1995* came into operation.<sup>27</sup>

### Arguments for and against retaining plurality voting

- 5.25 WALGA and many of the submissions in favour of retaining plurality voting maintain that the current system is simple and easy to understand and that the results are quickly calculated with a low risk of error.
- 5.26 The Shire of Boyup expressed its concern about the intent and impact of the Bill. The Shire maintains that there has been no argument of substance in support of the need for change, and as such, “*maintains that it is difficult to provide comments that can address the reasons for change*”.<sup>28</sup> A number of local government authorities, including the Town of Claremont, supported the contention that there was a lack of detailed reasons for change.<sup>29</sup>
- 5.27 Some of the submissions in favour of retaining plurality voting, such as the Shire of Boddington,<sup>30</sup> and Shire of East Pilbara<sup>31</sup> maintained that it has worked well since its introduction in 1996.
- 5.28 A number of individual submissions in support of the Bill maintain that plurality voting is undemocratic because Councillors can be elected with only minority support. A submission from Mr Gordon Payne stated the following:

*The quality and responsiveness of our local government councillors is influenced by the degree of involvement by their electors. Electing local councils who have majority support from these voters is the first step.*<sup>32</sup>

- 5.29 Another submission from Ms Carolyn Tan also maintains that the proposed changes to the electoral system will lead to a more democratic system and will result in the electors being more comfortable that the person elected has an absolute majority of the votes.<sup>33</sup>

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<sup>27</sup> Section 1.2, of the *Local Government Act 1995*.

<sup>28</sup> Submission No 9 from the Shire of Boyup Brook, 4 January 2007, p1.

<sup>29</sup> Submission No 50 from the Town of Claremont, 2 January 2007, p1.

<sup>30</sup> Submission No 44 from the Shire of Boddington, 24 January 2007, p1.

<sup>31</sup> Submission No 45 from the Shire of East Pilbara, 31 January 2007, p1.

<sup>32</sup> Submission No 30 from Mr Gordon Payne, 15 January 2007, p1.

<sup>33</sup> Submission No 74 from Ms Carolyn Tan, 19 February 2007, pp1-2.

5.30 Dr Janice Dudley, a lecturer in Politics and International Studies at Murdoch University, agrees that the proposed change is more democratic because of the need to obtain an absolute majority under preferential voting.

5.31 Dr Dudley makes the point that under plurality systems the higher the number of candidates the lower the percentage of votes needed for a candidate to be elected, and cited the following example:

*... if there are 4 candidates an individual can be elected upon receiving 26% of the vote; if there are 6 candidates 18%, 10 candidates 11%.<sup>34</sup>*

5.32 Dr Dudley raises the point that it is difficult to sustain the argument that a candidate receiving only 11 per cent of the vote is the candidate preferred by the majority.

5.33 Other submissions such as the one from the Shire of Derby/West Kimberley do not necessarily agree with the ‘more democratic’ argument for preferential voting. The Shire suggests that their electors are more likely to vote for the popular candidates. The Shire states in their submission that:

*Our electors have little real contact with politics in their everyday life however, when they make the time to cast their vote in an election which is not compulsory, they generally give considerable thought to who they want. Whether their choice is a winner or not, our electors all understand the basic tenets of healthy competition and accept that the candidates who poll best will fill the vacancies.<sup>35</sup>*

5.34 The Committee considered that the best way to demonstrate the correlation between a higher number of candidates, and a lower percentage of the total valid vote to gain election under a plurality system, was with an example of an actual local government election result.

**Table 2**

**An Example of Plurality Voting Results in the City of Perth in May 2005**

<b>Candidate</b>	<b>Votes</b>	<b>Percentage</b>	<b>Status</b>	<b>Expiry of Term</b>
HARDY, Chris	1599	<b>11.50%</b>	Elected	2 May 2009
HAMMOND, John	1346	9.68%		
BRADBURY, Bill	296	2.13%		

<sup>34</sup> Submission No 78 from Dr Janice Dudley, Murdoch University, 16 February 2007, p2.

<sup>35</sup> Submission No 7 from the Shire of Derby/West Kimberley, 12 January 2007, p2.

Candidate	Votes	Percentage	Status	Expiry of Term
JAQUANIELLO, Jean	193	1.39%		
SUTHERLAND, Michael	1729	<b>12.43%</b>	Elected	2 May 2009
McEVOY, Judy	1908	<b>13.72%</b>	Elected	2 May 2009
SCOTT, Neil	528	3.80%		
GONCALVES, David	659	4.74%		
PALLOTTA, Tony	914	6.57%		
SMITH, Daniel	932	6.70%		
FITZSIMMONS, Scott	277	1.99%		
TAN, Vincent	929	6.68%		
TUDORI, Bert	1016	7.31%		
EVANGEL, Eleni	1582	<b>11.38%</b>	Elected	2 May 2009
<b>Total valid votes</b>	13907	100%		

- 5.35 The Committee obtained the results for the Perth City Council elections from the Western Australian Electoral Commission's (WAEC) website.<sup>36</sup> The election was held on 7 May 2005 for the purpose of electing four Councillors for a four-year term.
- 5.36 The Committee sought additional information from the WAEC about the 13907 total valid votes.
- 5.37 The WAEC stated that there were 9,293 voting packages issued with 3,970 packages returned of which 3877 were accepted which amounted to a 42.72 per cent participation rate.
- 5.38 The Committee noted that the figure of 13907 valid votes is not an indication of how many people voted in the election as many electors may have used up to four votes.
- 5.39 The LGMA supports retaining plurality voting. It is concerned that the proposed system may result in a lower voter turnout and higher rates of informal votes. It states

<sup>36</sup> <http://www.waec.wa.gov.au>, (viewed on 14 March 2007).

that the community has never been asked which system they prefer and that the arguments for change are weak.<sup>37</sup>

- 5.40 The Shire of Yilgarn maintains that plurality voting is widely accepted among local governments in WA.<sup>38</sup>
- 5.41 The Committee acknowledged that plurality voting for local government elections in WA is widely accepted, and is the preferred choice among many of the local government authorities.
- 5.42 The Committee noted the following extract from the evidence by the LGAB's Chairman, Charlie Gregorini, which touches on the issue of acceptance:

*Hon BRUCE DONALDSON: We often hear that the word "change" is the most feared word in our vocabulary. Do you think there is certain fear throughout local government on this issue, or is there a genuine feeling that the first-past-the-post system has been accepted by the electors or do you think the fear is because no-one likes change?*

*Mr Gregorini: The first-past-the-post system has been very much accepted by councillors and staff. I do not think the general electorate would care how votes are counted, Mr Donaldson. Similarly, it surprises me that you as politicians do not have a say when your own seats will be redistributed. However, after nine years with the advisory board, the people who are having the most say about leaving the system as it is are those who actually benefit from it; namely, the councillors and staff of local government in Western Australia. It sometimes makes me wonder why that tier should be the one that has the say in retaining the status quo: it is the only level of government that can do that.*<sup>39</sup>

- 5.43 The LGMA makes the point that a local council is not a house of review and is more akin to a Legislative Assembly or House of Representatives. Consequently, the LGMA maintains that if the voting system has to change it should be to preferential voting only.<sup>40</sup>

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<sup>37</sup> Submission No 18 from the LGMA, 15 January 2007, pp1–8.

<sup>38</sup> Submission No 42 from the Shire of Yilgarn, 23 January 2007, p1.

<sup>39</sup> Mr Charlie Gregorini, Chairman, LGAB, *Transcript of Evidence*, 16 January 2007, p6.

<sup>40</sup> Submission No 18 from the LGMA, 15 January 2007, pp1–8.



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**Preferential voting**

- 5.44 Preferential voting originated in the USA but was developed in and is associated with Australia. It is the method used to elect members to the House of Representatives, and thus, the Australian Federal Government. It is also used to elect Legislative Assembly members in the majority of States and Territories, with the exceptions being Tasmania and the Australian Capital Territory.<sup>41</sup>
- 5.45 NSW has had optional preferential voting for the Legislative Assembly since 1979 and optional preferential voting was re-introduced in Queensland in 1992. All the other States and Territories require the electors to assign a preference to every candidate on the ballot paper for Legislative Assembly elections.<sup>42</sup>
- 5.46 Similar to many terms in the electoral system literature, preferential voting has different names. It is known in the USA as ‘instant-runoff’, in the UK (which uses a modified version) it is called the ‘supplementary vote’ while in Australia it is mostly referred to as ‘preferential voting’.
- 5.47 Preferential voting is a non-proportional system but where it differs significantly from plurality electoral systems is that, under preferential voting, a candidate needs to obtain an absolute majority to gain office, that is, 50 per cent of the votes plus one.
- 5.48 The elector is required to numerically rank the candidates in the order of their choice. If a candidate obtains an absolute majority of first preference votes, he or she is deemed elected. If no candidate obtains an absolute majority then the candidate with the lowest number of first preferences is eliminated and their second preferences are distributed to the remaining candidates. If there is still no candidate with an absolute majority, the process continues by eliminating the next candidate with the lowest number of votes and then distributing their preferences, and so on, until one of the candidates obtains an absolute majority of the votes. He or she is then declared the winner and is duly elected.
- 5.49 The Committee considered that the best way to demonstrate the requirement to receive an absolute majority of the total valid votes was with an example of an actual local government election result.
- 5.50 The Committee noted that this is just one example, from a single ward in Victoria, but that the requirement to gain at least 50 per cent plus one of the total valid vote is the same for all preferential voting.

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<sup>41</sup> Benjamin Reilly, ‘The Global Spread of Preferential Voting: Australian institutional imperialism?’ *Australian Journal of Political Science*, 39, 2004, p255.

<sup>42</sup> Australian Electoral Commission, *Informal Voting at State and Territory Elections*, Research Report No 10, September 2006, pp1–10.

**Table 3**

**An Example of Preferential Voting Results in the Dendy Ward Bayside City Council Victoria in November 2005**

<b>Candidate</b>	<b>1<sup>st</sup> Pref Votes</b>	<b>Votes received</b>	<b>Percentage</b>	<b>Expiry of term</b>
LANGMEAD, David	458			
ANDREWS, Gary	1830	2174	44.53%	
SPEEDING, Ivan	420			
STEGLEY, Kristin	2027	2708	<b>55.46%</b>	Nov 2008
THOMPSON, Alan	147			
<b>Total valid votes</b>	4882		100%	

5.51 The Committee obtained the result for the Dendy Ward in the Bayside City Council elections from the Victorian Electoral Commission website.<sup>43</sup> The election was held in November 2005 for the purpose of electing one Councillor for a three-year term.<sup>44</sup>

**Proportional representation**

5.52 In his seminal study, Dr Vernon Bogdanor, Professor of Government at Oxford University, and authoritative source on electoral and constitutional reform, dispels the misconception that proportional representation is the name of a single electoral system. He says it is not and continues:

*Proportional representation refers not to a specific electoral system but to an ideal or principle to which different electoral systems seek to conform.*<sup>45</sup>

5.53 The objective of proportional representation is to operate in multi-member constituencies and to allocate the positions for office as near as possible in proportion to the votes received.

5.54 There are many different methods for achieving the common goal of proportionality and Dr Bogdanor stresses the importance of specifying the particular system being referred to.<sup>46</sup>

<sup>43</sup> <http://www.vec.vic.gov.au>, (viewed on 14 March 2007).

<sup>44</sup> From 2008, local council elections will be held in Victoria on the last Saturday in November every four years.

<sup>45</sup> Vernon Bogdanor, *What is Proportional Representation? A guide to the issues*, Martin Robertson, Oxford, 1984, p46.

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- 5.55 There are essentially two main types of proportional systems; a list system, often referred to as a party list system; and the single transferable vote (STV).<sup>47</sup>

### List system

- 5.56 As the name implies the ordering of candidates on the ‘party’ list system is determined by the relevant political parties. The list can be closed as with above the line voting for the Legislative Council or the Federal Senate, or open as with below the line voting, which enables the elector to rank the candidates in the order of their choice.
- 5.57 There are no provisions for above the line voting proposed in the Bill and thus the list system does not apply to local government in WA.

### Single transferable vote

- 5.58 While there are many variations of and different formulas for achieving STV, the technical report on electoral reform in British Columbia, Canada, clearly states that it rests on the assumption that electors can choose between candidates rather than parties.<sup>48</sup> The electors are required to numerically rank the candidates in the order of their choice in the same way as the proposed preferential voting system.
- 5.59 None of the submissions opposing the Bill critiqued the system of proportional representation except to say that it is complex and difficult to count.
- 5.60 The Committee noted the following comments by Dr Dudley in relation to the democratic principles underlying proportional representation. In her submission she stated:

*There is a broad consensus within political science and electoral agencies (both in Australia and internationally) that PR provides the best reflection of votes cast by electors, that is, the preferences expressed by electors. PR systems of elections also tend to elect representatives who are more ‘representative’ (in a statistical sense) of the population of electors - thus the diversity of a population is more accurately reflected under PR systems. PR therefore constitutes the most democratic of election systems.*<sup>49</sup>

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<sup>46</sup> *Ibid.*

<sup>47</sup> Gerard Newman, *Electoral Systems: Current Issues Paper No 3 1989-90*, The Parliament of the Commonwealth of Australia, Canberra, 1989, p12.

<sup>48</sup> Citizens’ Assembly on Electoral Reform, *Making Every Vote Count: the case for electoral reform in British Columbia*, Citizens’ Assembly on Electoral Reform, Vancouver, 2004, p263.

<sup>49</sup> Submission No 78 from Dr Janice Dudley, Murdoch University, 16 February 2007, p2.

### Proportional representation single transferable vote

- 5.61 The system of proportional representation using the single transferable vote (**PR-STV**) was invented by Thomas Wright Hill in the 19<sup>th</sup> century. It was simultaneously refined by Danish mathematician Carl Andrae and English lawyer, Thomas Hare in the 1850s.<sup>50</sup>
- 5.62 PR-STV is, according to Dr Narelle Miragliotta, a politics lecturer at the University of Western Australia, “*enthusiastically supported*” in Australia.<sup>51</sup> Despite assuming a variety of names in various countries, PR-STV is the most accurate term for describing the system as it is applied in Australia.
- 5.63 PR-STV has two inherent electoral principles.
- 5.64 The first is the concept of proportionality itself whereby the intention is that the legislature, or municipal chamber, comprises representatives that reflect as close as possible the wishes of the voting public.
- 5.65 To achieve this, a candidate is elected after obtaining a quota or proportion of the total formal vote.
- 5.66 The quota is calculated by dividing the total number of formal votes by one more than the number of vacancies available, adding one and ignoring any remainder.
- 5.67 Another name for the quota is the Droop Formula named after English lawyer and mathematician Henry R Droop.

### The quota calculation

**Quota:**

$$Q = \frac{\text{Total number of formal votes}}{\text{Number of vacancies} + 1} + 1$$

**Example:** 20,000 formal votes, with 3 vacancies

$$Q = \frac{20,000}{4} = 5000 + 1 = \mathbf{5001}$$

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<sup>50</sup> Vernon Bogdanor, *What is Proportional Representation? A guide to the issues*, Martin Robertson, Oxford, 1984, p75.

<sup>51</sup> Dr Narelle Miragliotta, *Determining the Result: Transferring surplus votes in the Western Australian Legislative Council*, Western Australian Electoral Commission, Perth, 2002, p1.

- 5.68 The second inherent electoral principle of PR-STV is the rationale for the single transferable vote itself, which seeks to provide the widest selection and choice while simultaneously minimising the likelihood of wasted votes. If, for example, the elector's first choice of candidate accumulates more votes than the required quota or the candidate has the lowest vote and is eliminated, the elector's next preference on the ballot paper is transferred to the continuing candidate.
- 5.69 In Division 1 of the Bill, "continuing candidate" is defined as "*a candidate who has not already been elected or excluded from the count*".
- 5.70 The first steps in the counting process are:
- 5.70.1 If a candidate has received a number of votes which equal or exceed the quota the candidate is elected.
- 5.70.2 If a candidate is elected with exactly the same number of votes as the quota, those ballot papers are set aside as finally dealt with, as there is no surplus to transfer.
- 5.70.3 If a candidate has received more votes than the quota, the surplus votes are not wasted, but transferred or passed on to continuing candidates provided there are still vacancies to fill.
- 5.71 Thus, the second inherent electoral principle of PR-STV improves the odds that the elector's rank ordered vote will contribute in some way to the election of at least one representative to office.<sup>52</sup>

**Table 4**

**An Example of Proportional Representation Results in Mount Lofty Ward, Adelaide Hills Council, South Australia in November 2006**

Candidate	1 <sup>st</sup> Pref Votes	Elected or Excluded	Votes at conclusion of election	Count No
KEMP, John	409	Elected 3	Quota	5
PURDIE, Geoff	399	Elected 2	Quota	3
McDONALD, Jason Paul	294	Excluded	323	3
HOSKING, Kate	729	Elected 1	Quota	1
van der MOOLEN, Joslyn	316		515	
<b>Total formal votes</b>	2147	Quota is 537		

<sup>52</sup> *Ibid*, p2.

- 5.72 The Committee obtained the results for the Mount Lofty Ward Adelaide Hills Council elections from the South Australian Electoral Office.<sup>53</sup> The election was held in November 2006 for the purpose of electing three Councillors for a four-year term.
- 5.73 The DLGRD provided the Committee with some information about the number of whole district Councils' and the number of multi-member wards in WA, which gives an indication of the number of elections that would use the proportional representative system of counting, should the Bill pass through Parliament.
- 5.74 The Committee noted that there are 63 whole district Councils' in WA including Cocos Island and Christmas Island. There are 163 multi-member wards which will have terms expiring in 2007.<sup>54</sup>

### **The rationale for the weighted inclusive Gregory method for STV**

- 5.75 Transferring votes from an excluded candidate is a straightforward process similar to the allocation of preferences under the preferential voting method. The second, third, fourth, and fifth choices on all of the ballot papers from the excluded candidate are transferred to the continuing candidates at full value.
- 5.76 For an elected candidate with surplus votes it used to be standard practice in STV systems, to transfer only the ballot papers surplus to the quota, at their full value.<sup>55</sup> This was, for example, the system used in the Australian Senate prior to 1984.
- 5.77 Depending on which ballot papers were selected at various stages in the count and ultimately which ballot papers were transferred to the continuing candidate, in a close contest the fate of a candidate could be determined by the particular pattern of preferences in the selected 'surplus' ballot papers. In other words there are random effects involved in this counting method.
- 5.78 The first formula used in Australia to overcome this problem is known as the Gregory method, after J.B. Gregory, the Melbourne mathematician who devised the scheme in 1880. While improving on the random element, with the Gregory method only the last parcel of ballot papers is transferred.
- 5.79 The 'Inclusive Gregory' method of transferring surplus votes came into effect for the Australian Senate elections in 1984. A year later it was adopted for the Legislative Council of South Australia (SA) and in 1987 it was adopted for the Legislative Council in WA.

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<sup>53</sup> Correspondence from Mr David Gulley, Deputy Electoral Commissioner, State Electoral Office, South Australia, 14 March 2007, p1.

<sup>54</sup> Submission No 110 from the DLGRD, 21 February 2007, Attachment D, p1.

<sup>55</sup> David Farrell and Ian McAllister, 'The 1983 change in surplus vote transfer procedures for the Australian Senate and its consequences for the single transferable vote', *Australian Journal of Political Science*, 38, 2003, pp479-491.

- 5.80 The Inclusive Gregory method takes account of all the ballot papers received by the elected candidate, and then those ballot papers are transferred at a fractional value.
- 5.81 While improving on its predecessor the Inclusive Gregory method has been criticised *inter alia* by the Proportional Representation Society of Australia. The main concern was that the equal weighting in the distribution of surpluses was flawed, and that in some circumstances, the transfer values might rise rather than decrease.<sup>56</sup>
- 5.82 The potential for the transferred vote to increase in value under the inclusive Gregory method was recognised in WA and was briefly mentioned by the Electoral Commissioner, Mr Warwick Gately, while giving evidence to the Committee during this inquiry. The exchange went as follows:

*Hon KATE DOUST: Can you please explain to us the difference between weighted inclusive Gregory and inclusive Gregory?*

*Mr Gately: It is a very subtle change to do with the transfer value of votes at the late stages of the proportional representation count. The Legislative Council elections for the last five elections have been conducted on the inclusive Gregory system. On one occasion in Mining and Pastoral there was a complaint that the Electoral Commission did not adhere to the legislation as it was written in the way in which the value of those votes were transferred. That was not correct, but it identified an anomaly in inclusive Gregory whereby there is the potential for votes to increase in value as they are transferred. It is very unusual, but it is recognised as a potential. The move to weighted inclusive Gregory will ensure that votes diminish in value and do not increase in value as they are transferred. It is a subtle change. It is a complex counting regime that is not evident to electors as they put down their preferences. The move to weighted inclusive Gregory will remove that anomaly.<sup>57</sup>*

- 5.83 The State Government did act to remove that anomaly by introducing the Weighted Inclusive Gregory Method (**WIGM**) as part of the *Electoral Legislation Amendment Act 2006*,<sup>58</sup> along with a range of electoral reforms.
- 5.84 The Explanatory Memorandum for the Electoral Legislation Amendment Bill 2006 explained the reasons behind the amendment to modify the counting system for the Legislative Council as the following section explaining clause 52 of the Electoral Legislation Amendment Bill 2006 shows:

<sup>56</sup> Dr Narelle Miragliotta, *Determining the Result: Transferring surplus votes in the Western Australian Legislative Council*, Western Australian Electoral Commission, Perth, 2002, p15.

<sup>57</sup> Mr Warwick Gately, Electoral Commissioner, WAEC, *Transcript of Evidence*, 16 January 2007, p2.

<sup>58</sup> Act No. 64 of 2006.

*Amendments to Schedule 1 of the Act modify the counting provisions for the Council to remove the possible situation in which a ballot paper may increase in value during the transfer of surplus ballot papers to continuing in the count. This revised method ensures that each ballot paper reduces in value when transferred as part of a surplus. The new method, also referred to as the Weighted Inclusive Gregory Method, is an improvement on the current Inclusive Gregory method. It is the method developed and recommended by the Proportional Representation Society of Australia for the transfer of surplus votes in proportional systems. The process will be more detailed but is not expected to take longer to count as it will be completed using computers.<sup>59</sup>*

- 5.85 Thus the next election for the Legislative Council in WA in 2009 will use WIGM for calculating the transfer value to be applied during the later stages of transferring surplus votes.
- 5.86 The Committee noted, however, that WIGM has not yet been applied in any public election anywhere in the world. It seems that WA was the first to legislate for its inclusion.
- 5.87 WIGM did come close to been adopted in British Columbia as it was included as part of the proposal to introduce PR-STV by the Citizens' Assembly on Electoral Reform. The proposal went to a referendum in British Columbia on 17 May 2005, and narrowly failed, passing only one of the two required thresholds. While it achieved 77 per cent of Electoral District majority support, it just fell short of the 60 per cent of valid votes' province wide with 57.69 per cent.<sup>60</sup>
- 5.88 Scotland, however, is most likely to be the first country to use WIGM for public elections when it applies the PR-STV counting rules for the upcoming local government elections on 3 May 2007.<sup>61</sup>
- 5.89 The method of changing the local government electoral system from plurality voting to PR-STV was brought about as a result of the *Local Governance (Scotland) Act 2004*.<sup>62</sup> The Act does not include the detailed PR-STV counting rules,<sup>63</sup> but requires Scottish Ministers to make those rules by order.<sup>64</sup>

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<sup>59</sup> Electoral Legislation Amendment Bill 2006 Explanatory Memorandum.

<sup>60</sup> Final Referendum Results, <http://www.elections.bc.ca/elections/ge2005/finalrefresults.htm> (viewed on 13 February, 2007).

<sup>61</sup> Correspondence from Dr James Gilmore, Campaign Committee of Fairshare Voting Reform Scotland, 1 February 2007, p1.

<sup>62</sup> <http://www.opsi.gov.uk/legislation/scotland/acts2004/20040009.htm>, (viewed on 15 March 2007).



- 5.90 During consideration of the Local Governance (Scotland) Bill, the bill was referred to the Local Government and Transport Committee to report on the general principles contained therein. That committee made a number of recommendations in its Stage 1 Report on the bill. One of the recommendations in relation to the counting of votes stated that the committee:

*Concludes that the method set out in the Bill is the most appropriate one for local government elections in Scotland at this time, given the currently available counting technology;*

*Believes that its preferred alternative, the 'weighted inclusive Gregory method,' is theoretically, the most effective counting method as it ensures that the preferences expressed by all voters are counted; but notes manual counts using this system would be unrealistically time consuming; and Recommends that the 'weighted inclusive Gregory method' be introduced to replace the system set out in the Bill when electronic counting becomes available.<sup>65</sup>*

- 5.91 The Committee noted with interest that the Scottish authorities delayed the implementation of PR-STV until there was confidence in the electronic counting system. It appears that the local government ballot papers in Scotland are scanned into a computer system which greatly assists with both the timing and accuracy of the count.

### **Complexity in counting PR-STV**

- 5.92 The LGMA and the majority of local government authorities which sent in submissions expressed much concern about the complexities associated with the proposed change to the electoral system.<sup>66</sup> The main concern appears to be the difficulties involved in administering and counting PR-STV.
- 5.93 The Committee acknowledged that the counting of votes under PR-STV is complex for Senate and Legislative Council elections because of the large number of candidates and the high number of votes.

<sup>63</sup> James Gilmour, 'Developing STV Rules for manual counting to give effect to the Weighted Inclusive Gregory Method of transferring surpluses, with candidates votes recorded as integer values', *Voting Matters*, 22, July 2006, pp21–25.

<sup>64</sup> See No 42 of the Scottish Statutory Instruments 2007, <http://www.opsi.gov.uk/legislation/scotland/s-200700.htm>, (viewed on 15 March 2007).

<sup>65</sup> Scotland, Local Government and Transport Committee, 2<sup>nd</sup> Report Session 2, *Stage 1 Report on the Local Governance (Scotland) Bill Volume 1: Report*, 2004, p4. <http://www.scottish.parliament.uk/business/committees/lgr/reports-04/lgr04-02-vol01-02.htm#2> (viewed on 13 February, 2007).

<sup>66</sup> Submission No 18 from LGMA, January 2007, p5.

- 5.94 The Committee believes that the counting of votes under PR-STV may not be complex for many local government elections especially when there are a limited number of candidates and a relatively low number of votes.
- 5.95 This appears to be the case for the 2006 local government elections in SA which had both relatively straight forward counts when there were a small number of candidates and more complex counts when there were a large number of candidates in larger districts.<sup>67</sup>
- 5.96 Thus complexity does arise with the later transfer of surplus votes especially when there are a large number of candidates in large electorates or districts.<sup>68</sup>

### **Transfer of surplus votes using WIGM**

- 5.97 If there are still vacancies to fill and elected candidates have received more votes than the required quota, those excess votes (“surplus votes”) are to be transferred to the continuing candidates by way of a “transfer value”.
- 5.98 The main voting data used in the following examples is taken from the animation on the South Australian State Electoral Office website.<sup>69</sup> The animation helps explain how the proportional representation count works.
- 5.99 The Committee commends the South Australian State Electoral Office for its excellent animation and believes it is beneficial to the educative process for explaining both the principle behind proportional representation and the manner in which the counting proceeds.
- 5.100 The Committee wishes to clarify, however, that SA uses the Inclusive Gregory method, and therefore the animation applies Inclusive Gregory for calculating how the surplus ballot papers are transferred at the later stages.
- 5.101 Thus the Committee cautions against any potential ‘reliance’ on the SA animation for gaining a complete understanding of how proportional representation will apply in WA.
- 5.102 The following examples explain how the surplus ballot papers are transferred by using WIGM to calculate the transfer values.<sup>70</sup>

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<sup>67</sup> Correspondence from Mr David Gully, Deputy Electoral Commissioner, State Electoral Office, South Australia, 14 March 2007, p1.

<sup>68</sup> *Ibid.*

<sup>69</sup> <http://www.seo.sa.gov.au/flash.htm>, (viewed on 22 March 2007).

<sup>70</sup> Correspondence from Dr James Gilmore, Campaign Committee of Fairshare Voting Reform Scotland, 22 February 2007, pp1–2.

- 5.103 To avoid any element of chance every ballot paper is transferred, but because only the surplus votes are to be transferred, each ballot paper must carry with it only a fraction of one vote.
- 5.104 That fraction is calculated by dividing the surplus by the total number of votes held by the elected candidate.
- 5.105 In line with clause 5 of the Bill (which proposes the insertion of a new Schedule 4.1) Division 3, item 11, states that the transfer value is calculated by dividing the number of surplus votes of the elected candidate(s) by the “number of first preference votes” received by the elected candidate and the resulting fraction is the transfer value.<sup>71</sup>

### Transfer value calculation

#### Transfer Value (TV):

$$\text{TV} = \frac{\text{Elected candidate's surplus}}{\text{Total number of first preference votes received by the elected candidate}}$$

**Example:** (Jones surplus)  $6000 - 5001 = 999$

$$\frac{999}{6000} \text{ TV} = 0.1665$$

- 5.106 There are five candidates competing for three seats with 20,000 formal votes and the quota of 5001 was calculated by the formula shown at paragraph 5.67 above.
- 5.107 The five candidates which received the following amount of first preference votes were McPhee 3500, Jones 6000 (elected first count), Bruno 5000, Reilly 3000 and Schmidt 2500.
- 5.108 All of the elected candidate(s) ballot papers are examined, which in this case are Jones 6000 first preference votes and the second preferences are placed in separate bundles. There are 1000 ballot papers that allocate a second preference for McPhee, 2000 for Bruno and 3000 for Schmidt.
- 5.109 The next step is to multiply the number in each bundle by the transfer value.
- 5.109.1  $1000 \times .1665 = 166.5$  (truncated) giving McPhee 166 votes.
- 5.109.2  $2000 \times .1665 = 333$  giving Bruno 333 votes.
- 5.109.3  $3000 \times .1665 = 499.5$  (truncated) giving Schmidt 499 votes.

<sup>71</sup> Clause 5, item 11, Local Government Amendment Bill (No. 2) 2006.

- 5.110 Bruno now has 5333 votes and is elected.
- 5.111 There is still one more vacancy to fill under this scenario.
- 5.112 The Committee noted that the method for calculating how the later surplus votes are to be transferred using WIGM, is contained in proposed Schedule 4.1 Division 3, item 12 in clause 5 of the Bill. For calculation purposes, item 12(1) (a), and (b) can be shown with the following formulae:

**Continued transfer value (CTV) calculation**

Surplus Fraction (SF):

$$\text{SF} = \frac{\text{Elected candidate's surplus}}{\text{Total number of votes received by the elected candidate}} \times \frac{\text{the transfer value at which those ballot papers were received}}{\text{CTV}}$$

Example (Bruno's surplus)  $5333 - 5001 = 332$

$$\frac{332}{5333} \text{ SF} = 0.062253 \text{ (truncated at 6 decimal places)}$$

- 5.113 It is necessary to use the surplus fraction obtained to calculate the 'continued transfer value' (CTV) for each parcel of differently valued papers. In this case there are two parcels of papers of differing values – Bruno's first preference papers with a value of 1.00 and the papers transferred from Jones with the current value of 0.1665.
  - 5.113.1 Thus  $\text{CTV} = \text{surplus fraction} \times \text{current value}$ .
- 5.114 After sorting all of Bruno's ballot papers into separate bundles, the Committee assumed that there are now 2143 papers allocating a second preference for McPhee and 2857 allocating a second preference for Schmidt, which amount to Bruno's 5000 first preference votes.
- 5.115 This equates to  $2143 \times 0.062253 = 133$  votes for McPhee, and  $2857 \times 0.062253 = 177$  votes for Schmidt.
- 5.116 There are 857 ballot papers allocating the next preference to McPhee that were transferred from Jones and which have a value of 0.1665, and similarly 1143 ballot papers allocating the next preference to Schmidt, which also have a value of 0.1665.
- 5.117  $\text{CTV} = \text{surplus fraction} \times \text{current value}$ , which is  $0.0622530 \times 0.1665 = 0.0103650$ .
- 5.118 Thus  $857 \times 0.010365 = 8.882805$  which is 8 (truncated) votes for McPhee and  $1143 \times 0.0103650 = 11.847195$  which is 11 (truncated) votes for Schmidt.

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- 5.119 McPhee's first preference votes were  $3500 + 166 + 133 + 8 = 3807$ .
- 5.120 Schmidt's first preference votes were  $2500 + 499 + 177 + 11 = 3187$ .
- 5.121 The results at this stage of the count are McPhee 3807, Schmidt 3187 and Reilly 3000 none of which have reached the quota.
- 5.122 Thus Reilly with the lowest number of votes is excluded and her preferences are distributed to the continued candidates only.
- 5.123 McPhee receives 1000 and now has a total of 4807.
- 5.124 Schmidt receives 2000 and now has a total of 5187 and thus Schmidt is elected to the remaining vacancy.

## **6 OTHER ISSUES OF CONCERN**

- 6.1 A number of other issues were raised in both the submissions and during the hearings for this inquiry. Some of these included:
- consultation;
  - the change to the electoral system would result in increased factions/alliances in local governments or more direct involvement from the political parties;
  - the proposed electoral system would lead to an increased cost for local governments and thus the ratepayers; and
  - implementation and timeframe.

### **Consultation**

- 6.2 Many local governments felt they were not adequately consulted on the proposed change and WALGA embarked on a vigorous campaign opposing the proposed change to the electoral system.
- 6.3 By comparison the Committee noted the extensive ten year consultation process that culminated in the enactment of the *Local Government Act 1995*.
- 6.4 The Committee followed up, however, on the recollection by some of the witness and elected members that plurality voting was only introduced during the final drafting stages of the Local Government Bill 1995.

6.5 The WAEC provided supporting information to its evidence given to the Committee on 16 January 2007. That information referred to the discussion period that had commenced in 1987 for the Local Government Bill 1995.<sup>72</sup>

6.6 The WAEC informed the Committee that they had input into the drafting of the Local Government Bill 1995, and the WAEC supported both preferential and proportional voting for local government elections, “*largely to ensure consistency in marking of ballot papers with State elections, thus lessening the chance of informal voting*”.<sup>73</sup>

6.7 The Committee noted the following comment from the WAEC:

*Local governments supported the first-past-the-post method which they perceived made counting ballot papers (when conducting their own elections) simpler. It would appear the then Minister, Paul Omodei MLA, requested first-past-the-post for the final draft of the Bill, although earlier drafts had contained preferential voting for single member vacancies, and PR for multi-member vacancies.*<sup>74</sup>

6.8 The Committee noted the Department of Local Government released a series of papers that dealt with the individual chapters of the Local Government Bill 1995. It was clear from the paper relating to elections as released in 1990, that preferential voting was intended to be introduced for elections with one or two vacancies, and proportional representation was intended to be introduced for elections with three or more vacancies.<sup>75</sup>

6.9 The application of preferential voting and proportional representation was clarified in the draft Local Government Bill 1995 as the following document reveals:

*Proportional Representation (PR)*

*PR will be adopted as the system for counting votes for multiple member vacancies instead of the current preferential system. This will enhance the ‘fairness’ of the electoral system as voter preferences will pass between candidates at a reduced weighting. The current preferential system will remain where there is only one vacancy to be filled.*<sup>76</sup>

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<sup>72</sup> Correspondence from Mr Warwick Gately, Electoral Commissioner, WAEC, 31 January 2007, p2.

<sup>73</sup> *Ibid*, p2.

<sup>74</sup> *Ibid*, p2.

<sup>75</sup> Department of Local Government, *Proposals for a new Local Government Act: Elections, proposal for chapter four of the new local Government Act*, April 1990, pp13–14.

<sup>76</sup> Department of Local Government, *A Draft Bill for a new Local Government Act: Summary of significant proposals*, December 1994, p9.

- 6.10 Despite the lengthy consultation process, and clear intention to retain preferential voting and to introduce proportional representation, it appears from the Legislative Council Committee stage debates that the decision to apply plurality voting for local government elections in 1995 “*was by no means unanimous*”.<sup>77</sup>
- 6.11 In relation to the current proposal to change the electoral system, WALGA engaged in a media campaign taking out both television and newspaper advertisements at the end of 2006. On the issue of consultation, a segment from one of those newspaper advertisements read as follows:

*In introducing the legislation last week, the State Government went back on its word on agreements to consult with Local Government. The legislation to change from the first-past-the-post election system to a proportional preferential system was introduced by the State Government without consultation with Local Government and in fact ignoring that the overwhelming majority of Councils had already said they did not want a change.*<sup>78</sup>

- 6.12 WALGA and a number of local governments maintained that the changes to the voting system had been development in contravention of the State Local Government Partnership Agreement on Communication and Consultation<sup>79</sup> and the Tripartite Intergovernmental Agreement.<sup>80</sup>
- 6.13 WALGA also maintained that the State Government had ignored the advice of its own LGAB.<sup>81</sup>
- 6.14 The City of South Perth took the opportunity, in its submission, to remind the Committee of those partnership agreements and some of the underlying principles and objectives underpinning those agreements. The submission stated that:

*The State and Local Government Partnership Agreement, signed in December 2002, provides the framework under which both spheres of government can work together to enhance the sustainable social, environmental and economic development of Western Australia*

<sup>77</sup> Hon Eric Charlton MLC, Minister for Transport, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 7 December 1995, p12693.

<sup>78</sup> WALGA, ‘Why does the State Government want Party Politics in Councils?’ *The West Australian*, 10 October 2006, p11.

<sup>79</sup> Government of Western Australia; WALGA; LGMA, *Partnership agreement on communication and consultation*, Perth, 2 June, 2004.

<sup>80</sup> The Commonwealth, States and Territories and the Local Government Association, *The Inter-Governmental Agreement Establishing Principles Guiding Inter-Governmental Relations on Local Government Matters*, Canberra, April 2006.

<sup>81</sup> LGAB, *Local Government Structural and Electoral Reform in Western Australia: Ensuring the future sustainability of communities*, Perth, April 2006.

*through consultation, communication, participation, co-operation and collaboration at both strategic and project levels.*<sup>82</sup>

- 6.15 The then Minister for Local Government, Hon Jon Ford MLC, reflected on the issue of consultation and the partnership agreement as evident during the following exchange in relation to the proposed change:

**Hon Nigel Hallett:** *Have you convinced the president of WALGA that it is a better system?*

**Hon Jon Ford:** *Obviously not. The president of WALGA is sitting in the President's gallery. I have obviously not convinced him, but that is politics. We held a meeting this morning as part of our partnership agreement when we reaffirmed that even though we have disagreements from time to time, we are dedicated to the partnership. Although I will not concede that no consultation has taken place, I will concede that there is a communication issue that I have now moved to address by meeting local governments. When we are considering legislation or policy that directly affects local governments, we will either write directly to all 144 local governments in response to their particular concerns -*

**Hon Robyn McSweeney:** *You have to do that anyway.*

**Hon Jon Ford:** *No, I do not.*

**Hon Robyn McSweeney:** *Yes, you do, under the agreement.*

**Hon Jon Ford:** *If the member waits, she will find that I have not yet finished. Not only will I do that, but also when we formulate our position I will send out another note.*<sup>83</sup>

- 6.16 Some of the submissions, including one from Hon Jack Simpson, a former Minister in the Cain Government of Victoria, did not agree with the assertions regarding the lack of consultation. He stated:

*Contrary to a view being expressed ad nauseum, I believe because of the exhaustive examination by the LGAB, the proposed legislation could hardly be described as forcing electoral reform without*

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<sup>82</sup> Submission No 112 from The City of South Perth, 21 February, p3.

<sup>83</sup> Hon Jon Ford MLC, Minister for Local Government and Regional Development, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 23 November 2006, pp8741-2.



*discussion or consultation. I personally forwarded two submissions and attended and spoke at one of the many public meetings.*<sup>84</sup>

- 6.17 The lack of consultation was mitigated to some extent with the referral of the Bill to the Committee. WALGA acknowledged this with a media release on the day after the referral with the following:

*Late yesterday, the part of the amendment to change from first-past-the-post to proportional preferential voting was sent to Committee by the Upper House - a move that will now provide the opportunity for consultation while not delaying the passage of the other components of the legislation including the change of date from May to October.*<sup>85</sup>

- 6.18 Consultation was raised again as a significant concern during WALGA's appearance before the Committee. In his opening statement, the President of WALGA, Mr William Mitchell maintained that the LGAB's inquiry did not constitute consultation under the terms of the partnership.<sup>86</sup>

### **Factions, alliances and party politics**

- 6.19 A significant argument against the Bill is that the change to the voting system will increase the likelihood of factions or alliances forming on councils, or could even result in greater interference from the political parties.

- 6.20 An extract from the WALGA advertisement read as follows:

*Councils are highly likely to be hijacked by party politics or by directed alliances under the State Government's plan to force changes to the Council election system.*

*It would mean that instead of representing the direct interest of ratepayers, Councillors would become political party stooges that vote on issues as directed by their party.*

*Consultation with the community on significant projects would become irrelevant as ultimately any decision would be determined by Councillors voting on party lines.*<sup>87</sup>

<sup>84</sup> Submission No 13 from Hon Jack Simpson, 9 January 2007, p1.

<sup>85</sup> WALGA, 'Local Government Wins Consultation on New Voting System', *Media Release*, 24 November 2006.

<sup>86</sup> Mr William Mitchell, President, WALGA, *Transcript of Evidence*, 16 January 2007, pp1-2.

<sup>87</sup> WALGA, 'Why does the State Government want Party Politics in Councils?', *The West Australian*, 10 October 2006, p11.

- 6.21 Hon Paul Llewellyn MLC sought to draw out some evidence for the 'party political' assertions during the hearings with WALGA representatives. The exchange went as follows:

***Hon PAUL LLEWELLYN:** The committee has heard several submissions already. I acknowledge that the Western Australian Local Government Association has some issues about the protocol and the procedure, particularly the consultation process between local government and the minister. This committee process is intended to address some of those issues. In the interests of making clear public decisions, there must be good information in the public domain. I am looking at an advertisement that WALGA released and which you signed off on, Mr Mitchell. It states that with the introduction of a new voting system, local government councils are highly likely to become hijacked by party politics and be directed by alliances. Where is the evidence that the new system will be any different from the current system?*

***Mr Mitchell:** The evidence is from Queensland, New South Wales and Victoria where proportional preferential voting or preferential voting on single-seat issues occurs. That has been the direction that those candidates have taken.*

*In all three of those states now I believe someone needs to be party endorsed to stand, or stand as an Independent. In New South Wales or Victoria - I am not sure which - they have extended it to being similar rules by which you are elected, in that people can vote above the line. This has certainly encouraged block voting.<sup>88</sup>*

- 6.22 The Committee sought information from the various electoral commissions in Australia regarding the specific electoral systems used and the extent of political party involvement in local government elections.
- 6.23 Party politics is most evident in local government in NSW where all political parties must be registered under the *Local Government Act 1993* (NSW). The identification of the party name is allowed on the ballot paper, and of all the States in Australia, only NSW permits above the line voting for elections applying proportional representation.
- 6.24 The electoral systems used in Victoria and SA best reflect the electoral system for WA that is contained in the Bill.
- 6.25 In Victoria there are no provisions for political parties in the *Local Government Act 1989* (VIC). The Victorian Electoral Commission (**VEC**) informed the Committee

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<sup>88</sup> Mr William Mitchell, President, WALGA, *Transcript of Evidence*, 16 January 2007, p4.

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that there is some political party involvement in local government elections, mainly in inner suburban areas and less affluent suburbs. In those areas the candidates may identify their party membership, but they are not endorsed by the party.

6.26 The Committee noted the following information from the VEC which stated:

*When the VEC was conducting local government electoral representation reviews in 2004-05 and in some cases was recommending a change from single-councillor to multi-councillor wards (which meant a change to PR), there were objections that this would open the way to party politics in councils which had been free of it. However, the VEC did not notice any more involvement by political parties in the 2004 and 2005 council elections.<sup>89</sup>*

6.27 The Committee noted that the information from the VEC does not support the contention that there will be an increase in party political involvement in local government as a result of introducing preferential voting or proportional representation in WA.

6.28 The LGMA expressed its view on the issue of political party involvement in its submission to the inquiry with the following:

*There is very limited overt political party involvement in Western Australian Local Government. Political parties in Western Australia have not endorsed candidates in Local Government as a norm. Developers, corporations, community groups, individuals do this all the time. It is the way the system works. Councillors should listen to the arguments of all relevant parties to fully understand an issue so that their vote is an informed one and is intended to bring about the best result for the community.*

*The evidence from South Australia where the proportional preferential voting system has been used is that it has not led to a greater political party involvement.<sup>90</sup>*

6.29 The LGMA acknowledged that the Bill does not include provisions for above the line voting and expressed the view that none of the proposed voting systems will of themselves increase the involvement of political parties in local government in WA.<sup>91</sup>

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<sup>89</sup> Correspondence from Paul Thornton-Smith, Senior Information and Research Officer, Victorian Electoral Commission, 9 February 2007, p1.

<sup>90</sup> Submission No 18 from LGMA, January 2007, p3.

<sup>91</sup> *Ibid.*

6.30 The Committee noted that the above reference to the lack of political party involvement in SA, since proportional representation was introduced, is supported by the information received by the SA State Electoral Office.

6.31 The SA Electoral Commissioner stated that:

*The SA Local Government (Elections) Act 1999 introduced proportional representation (PR) vote counting for all local government elections, prior to which, councils were able to choose either optional preferential or proportional representation as the voting system. The monitoring of press, television and radio during the November 2006 elections and May 2003 council elections has not identified a discernable increase in public political support of candidates since the introduction of proportional representation.<sup>92</sup>*

6.32 While giving evidence the Chairman of the LGAB, Mr Charlie Gregorini, expressed his view about the issue of party political involvement in local government. He stated:

**Mr Gregorini:** *I do not believe that the system would increase party politics at all. I use myself as an example: if I am running under a preferential system, I would need a second candidate to run with because it is a multiple election.*

*Even under a first-past-the-post system, because there are two vacancies, I would still have to go out to the electorate with a partner. We would run independent campaigns, but we would hand out the same how-to-vote card stating that if you want Charlie Gregorini and John Holmes to be re-elected, please tick these two squares. I do not think that one system would influence it anymore than the other politically.<sup>93</sup>*

6.33 Hon Louise Pratt MLC explored the issue further and asked Mr Gregorini the following question:

**Hon Louise Pratt:** *Is the question of party politics separate from the question of election methods?*

**Mr Gregorini:** *The question of party politics has been blown completely out of the water. I do not see any difference. In my 30 years of service to local government, I have not seen that occur under either system, except in the eastern states where it is party political - I guess we are talking about New South Wales. The council might be*

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<sup>92</sup> Correspondence from Kay Mousley, South Australian Electoral Commissioner, 20 February 2007, p1.

<sup>93</sup> Mr Charlie Gregorini, Chairman, LGAB, *Transcript of Evidence*, 16 January 2007, p6.

*run by the Liberals now but in four years Labor might take over. What happens then is that the whole administration changes and that is not fair to the electorate either. I do not believe that this system would introduce that in Western Australia. I cannot fathom it.*<sup>94</sup>

- 6.34 Hon Paul Llewellyn MLC explored the issue of politicisation under plurality voting and asked Mr Mitchell, President of WALGA the following question:

**Hon Paul Llewellyn:** *Do you know of any evidence of politicisation of local government politics when using the first-past-the-post voting arrangements?*

**Mr Mitchell:** *I know of some ex-members of State Parliament who have influenced the outcome, or their campaigns have influenced the outcome, of first-past-the-post voting, yes.*

**Hon PAUL LLEWELLYN:** *What do you know about the system in Great Britain where they have first-past-the-post voting and it is a highly politicised electoral system?*

**Mr Mitchell:** *I do not have knowledge of that.*<sup>95</sup>

- 6.35 The Committee noted the longstanding interrelationship between local government and political parties in the UK, and that all their elections are conducted under plurality voting.<sup>96</sup>

- 6.36 Mr Scheggia a WALGA representative indicated that politics is prominent in local government in NSW, and he also acknowledged that factions, alliances and political involvement currently exist in local government in WA. This is demonstrated by the following exchange:

**Hon KATE DOUST:** *You do not think that in the system we have in Western Australia that factions, alliances and some political involvement does not exist now?*

**Mr Scheggia:** *Quite the contrary; I think we would be convinced that it does exist. Our argument is about not facilitating its expansion. We think there is a greater potential for it to be increased where there is a formal process that relies on preferences, which creates the need for an alliance to facilitate the best outcome for a certain candidate.*

<sup>94</sup> *Ibid.*

<sup>95</sup> Mr William Mitchell, President, WALGA, *Transcript of Evidence*, 16 January 2007, p5.

<sup>96</sup> Colin Corpus, *Party Politics and Local Government*, Manchester University Press, Manchester, 2004.

**Hon KATE DOUST:** *Putting aside the party politics aspect that you are obviously concerned about, is it not just human nature that when people come together in those types of groupings they tend to form alliances on issues? They may form alliances, move away from them and then form them again. That is not something that anyone can stop, regardless of which electoral system we have in place.*

**Mr Scheggia:** *Yes, indeed. It has been the focus of the attention of consecutive state governments of both major political persuasions. The prevalence and the encouragement of alliances and factions in local governments is contrary to good governance, so we cannot understand why you would mount an argument that would seem to introduce a system that goes towards encouraging rather than reducing the potential for those alliances.*

**Hon KATE DOUST:** *It is your view that it would encourage it.*

**Hon PAUL LLEWELLYN:** *What happened prior to 1995 with the political machinations, alliances and so on, when we had preferential voting? Was there a significant change in the political climate in local government as a result of the change in the first-past-the-post system or did it stay the same? We have already run that experiment.*

**Mr Scheggia:** *I cannot offer a perspective. I was not working in -*

**Hon PAUL LLEWELLYN:** *Somebody here has to know about that.*

**Mr Scheggia:** *Is your question: were there more politics in local government in 1995 as opposed to now? Is that the nature of the question?*

**Hon PAUL LLEWELLYN:** *Or has there been an increase in good governance, and how do you measure good governance and political alliances?*

**Mr Mitchell:** *That is a difficult question to answer because we as an association, and indeed the state through the department, have been working on good governance and better governance anyway. The preferential system certainly worked, and did work for quite some time, but we are talking about proportional preferential voting and the quota system here, and I think there is a vast difference.<sup>97</sup>*

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<sup>97</sup> Mr Scheggia and Mr William Mitchell, President, WALGA, *Transcript of Evidence*, 16 January 2007, p6.

- 6.37 The LGMA expressed its view on the issue of factions and alliances in its submission to the inquiry with the following:

*Many Local Governments have been plagued by factions since the introduction of first-past-the-post voting in 1996. Does this mean that this system of voting has contributed to the development of factions? There are rare cases where multiple vacancies have caused groups of candidates to campaign as a team and canvas for votes for just their group. Overall, it is much more difficult to impose a discipline on voting patterns in a first-past-the-post-system.*

*Preferential voting encourages alliances by swapping preferences. Such a process sets a climate for candidates to be identified with or belong with one group or another even before they are elected. Factions or alliances are going to be a natural result of this pre-election behaviour.<sup>98</sup>*

- 6.38 The Committee acknowledged that factions and alliances have developed among some local government authorities in WA in recent times.
- 6.39 The Committee also acknowledged that there may be limited political party involvement in local government in WA, from time to time, as there appears to be in Victoria and SA. The Committee believes that such involvement is usually membership based rather than party endorsed.
- 6.40 The Committee by a majority comprising Hons Louise Pratt, Kate Doust and Paul Llewellyn MLC's found no supporting evidence to the claims that party political involvement, factions or alliances or single-issue candidates getting elected will increase as a result of the proposed change to the electoral system as contained in the Bill.
- 6.41 A minority of the Committee comprising Hons Bruce Donaldson and Robyn McSweeney believe that on the evidence heard, proportional representation will allow for greater political interference and that it will also be easier for single-issue candidates to be elected under proportional representation, which is not in the best interest of the community or local government.

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<sup>98</sup> Submission No 18 from LGMA, January 2007, p4.

### **Administrative matters associated with the proposed electoral system**

#### *Costs*

- 6.42 The issue of additional costs associated with the proposed change to the electoral system was a significant concern raised by WALGA and practically all of the local governments that opposed the Bill.
- 6.43 WALGA's submission stated that the complexity of proportional representation counting would force many, if not all, local governments to adopt postal voting for their elections and contract the WAEC to run them.
- 6.44 On the issue of cost WALGA stated the following while giving evidence to the Committee:

*The other issue we have with proportional preferential voting is the lack of cost efficiency. The first-past-the-post system is very cost efficient. It is very easy and simple for councils to run. In most instances councils run their own election process, particularly those in the country. The Western Australian Electoral Commission ran at the last local government elections, I think, 24 postal voting processes out of the 28 metropolitan councils at some cost to local councils. It ranged up to in excess of a quarter of a million dollars. Local government needs to run an election process every two years. Our inquiries through the Western Australian Electoral Commission indicate that if proportional preferential voting is introduced, an increase of around 20 per cent on those figures would be the order of the day. The experience in South Australia when local government changed to proportional preferential voting in one fell swoop was that every council went across to the Electoral Commission to assist them in processing and counting their votes.<sup>99</sup>*

- 6.45 WALGA also raised concerns that only the WAEC can be contracted under the *Local Government Act 1995* to run local government elections. This, WALGA claims, is a monopoly and local government is unable to get quotes elsewhere to reduce costs.<sup>100</sup>
- 6.46 The issue of cost was raised with the WAEC while giving evidence to the Committee as the following exchange reflects:

**Hon BRUCE DONALDSON:** *I can understand what you said about Sandstone and some of those smaller councils. Some of those smaller councils do not even have elections but there was a push by the*

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<sup>99</sup> Mr William Mitchell, President, WALGA, *Transcript of Evidence*, 16 January 2007, p3.

<sup>100</sup> *Ibid.*



*managers of local government at some stage over the high cost. They thought that would be reduced as more and more councils took up that provision. Do you see that occurring if you lifted it up to 80 or 85 per cent of the councils? Would that cost come down in a per dollar vote, for argument's sake, or as a form of bulk buying?*

***Mr Gately:** In 2003 the Electoral Commission was criticised for the costs that were imposed upon local governments for those ordinary elections. In 2005 we reduced those costs by 25 per cent across the board. That was through clever processes and better tendering. We will not see that margin reduction again because we have just about taken everything out of it. All I recover is my direct costs and an overhead on staff time. We are already purchasing envelopes in bulk and printing in bulk. There is a very competitive environment for that. The bringing on board of other local governments may incur some increased costs potentially in that other returning officers need to be engaged, other staff have to be employed and hardware may need to be hired for a local government that has not had to do that before. Those costs are not necessarily substantial and significant. The big costs associated with a postal election are postage, return postage and printing.*

***CHAIR:** How do those costs compare to an in-person election?*

***Mr Gately:** An in-person election will always be cheaper on the whole but there is an average elector turnout of about 10 per cent. Across our 50 local governments, we are achieving about a 38 per cent turnout. There is a premium but that premium will result in a better turnout.<sup>101</sup>*

- 6.47 The Shire of Manjimup provided the following comment in relation to the costs from the proposed change impacting on the smaller local governments:

*It is interesting to note that under the current ward/electoral structures, the four largest local government districts of Stirling, Joondalup, Wanneroo and Melville (with a combined 403,000 electors) will only use preferential voting. However, 129 other local governments will be affected by proportional preferential systems and many of these will also have to use the preferential system to determine results. It is of concern that some of these smaller local councils are unlikely to be able to draw on the required expertise and*

<sup>101</sup> Mr Warwick Gately, Electoral Commissioner, WAEC, *Transcript of Evidence*, 16 January 2007, p4.

*be least able to fund that expertise and the additional staff resource that will be necessary to count votes under the proposed changes.*<sup>102</sup>

*Potential to fill vacancies under proportional representation*

6.48 The Committee asked some of the witnesses if they had any suggestions to improve the Bill as the following extract during the hearings with the WAEC shows:

*Hon KATE DOUST: So do you have any recommendations of your own that you think may improve this bill that we are dealing with?*

*Mr Gately: One advantage certainly of the Legislative Council counting system is the ability to recount. So, if there is a resignation, for example, from the council, then we go through a process and we re-run the numbers and then there is a result within 40 minutes at no cost. I note that with this system there is no opportunity to do that in the local government setting. That is something that you may wish to consider. Local government does not need to do an extraordinary election. It can rerun the numbers subject to other requirements and from that there is a result.*<sup>103</sup>

6.49 The Committee noted that the ability to conduct a recount under a system of proportional representation may be something worthy of future consideration as it could have the potential to reduce the cost of having to conduct an extraordinary election.

*Returning officers*

6.50 The issue of Chief Executive Officer's (CEO) as returning officers was raised during the hearings with at least one CEO indicating that he has a number of concern about acting in that role.

6.51 When asked a general question about the nature of concerns and practice of conducting elections, Mr Eric Lumsden, CEO of the City of Melville, and President of the LGMA answered the question in part with the following:

*Many local government CEOs who are invariably returning officers often find themselves in invidious positions not only prior to an election, but also when they have to rule, in conjunction with the scrutineers, on whether a vote is invalid. Unless other factors come into play - such as costs - there has generally been a move to use the state Electoral Commission. There is no way that I would be a*

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<sup>102</sup> Submission No 40 from Shire of Manjimup, 22 January 2007, pp1-2.

<sup>103</sup> Mr Warwick Gately, Electoral Commissioner, WAEC, *Transcript of Evidence*, 16 January 2007, p11.

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*returning officer in any local government operating under the proposed system.*<sup>104</sup>

- 6.52 Mr Lumsden went on to state that he would not encourage a CEO to act as a returning officer on his own Council.
- 6.53 The question of CEO's as returning officers or the Electoral Commission taking on the role was put to the Chairman of the LGAB and the exchange went as follows:

**Hon KATE DOUST:** *We raised this issue a couple of times: comments were made about CEOs being the returning officers for ballots. I note that you dealt with that in your report, and you obviously received submissions about the CEO playing that role. However, I cannot see a recommendation about possibly changing that situation. I have raised it with the Electoral Commission and others that perhaps the Electoral Commission should take on the role of being the returning officer and taking it away from the CEO. Was that your committee's view as well?*

**Mr Gregorini:** *We would much prefer to see all elections in the state conducted by the Electoral Commission.*

**Hon KATE DOUST:** *That is similar to the situation in South Australia.*

**Mr Gregorini:** *However, some very small local authorities have fewer than 300 electors. We probably felt that in those circumstances it would be unfair with the extra cost for the Electoral Commission to conduct those elections. That is why we recommended leaving it as it was. Personally, I believe that the CEOs should not be part of it, but that is my personal view, of course.*<sup>105</sup>

#### *Implementation and timeframe*

- 6.54 The LGMA stated that it was apprehensive about the limited time-frame for everything to be in place before the elections.<sup>106</sup>
- 6.55 The Committee noted the following extract from the DLGRD's submission which relates to the implementation programme for the local government October elections. The submission stated:

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<sup>104</sup> Mr Eric Lumsden, President LGMA, *Transcript of Evidence*, 15 January 2007, p3.

<sup>105</sup> Mr Charlie Gregorini, Chairman, LGAB, *Transcript of Evidence*, 16 January 2007, pp5–6.

<sup>106</sup> Submission No 18 from the LGMA, 15 January 2007, pp1–8.

*The Department has commenced an advisory program to assist local governments prepare for the October 2007 elections. As in previous election years, resource materials will be updated, an indigenous enrolment strategy will be conducted and seminars, information sessions, and regional workshops for potential candidates, Chief Executive Officers and Returning Officers will be provided.*

*In addition, the Department will conduct an advertising campaign designed to publicise the change of elections date from May to October and to encourage greater participation by candidates and electors. In the event that the new voting system is introduced, this campaign, along with the Departmental web page and a regular series of bulletins to be sent to the sector, will also provide information on the new voting system. In that case, the Department will also make software available to all local governments for the counting of votes and will provide regular training at a series of regional workshops.<sup>107</sup>*

## **7 FINDINGS AND RECOMMENDATION**

7.1 The majority of the committee comprising Hons Louise Pratt, Kate Doust and Paul Llewellyn:

- a) Found from the evidence available that preferential and proportional representation as provided for in the Bill will more democratically represent the views of the majority of electors.
- b) Found that the proposed voting system is understood and accepted by electors as a fair system and is generally consistent with both State and Federal electoral systems.
- c) Notes that while the system of counting votes (preferential or proportional representation) may differ according to the number of positions open for election, the voting system and the manner in which electors are expected to mark the ballot paper is consistent and clear.
- d) Found no evidence to suggest that a change in the electoral system will increase factional or party politics beyond the level that it exists already, especially as party registration, which is a feature of local government elections in some of other states, will continue to be precluded by the existing legislation.

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<sup>107</sup> Submission No 110 from the DLGRD, 21 February 2007, p1.

- e) Notes that many local government authorities were unhappy with the original consultation process and that this inquiry was established to assist in addressing those concerns.
- f) Recognised that the State Government and WALGA have differing views on the policy principles underpinning this legislation.

7.2 A majority of the Committee (comprising Hons Louise Pratt, Kate Doust and Paul Llewellyn MLCs) support the implementation of the Bill.

**Recommendation 1: The Committee, by a majority (comprising Hons Louise Pratt, Kate Doust and Paul Llewellyn MLCs) recommends that the Local Government Amendment Bill (No. 2) 2006 be passed without amendment.**

7.3 A minority of the Committee comprising Hons Bruce Donaldson and Robyn McSweeney MLCs do not support the recommendation for a number of reasons including:

- a) The taking of evidence and receipt of submissions during the inquiry clearly showed that there had been no call to change the existing FPP for local government elections either from local government or the community.
- b) It ignores the LGAB's recommendation that "that the current provisions for the 'first past the post' system of voting be retained".
- c) There was overwhelming opposition by the many local government authorities against the proposed changes from FPP to preferential voting and proportional representation.
- d) No public benefit or improved democratic voting outcomes have been demonstrated or identified.
- e) There was a clear lack of consultation with local government authorities and their association representatives which did not meet the guidelines outlined in the intergovernmental agreement between the State and WA Local Government.
- f) The proposed change will create three types of vote counting, namely FPP, preferential voting and proportional representation, which will create greater confusion. For example, 403,000 electors will use preferential voting for large local government authorities (Stirling, Wanneroo, Joondalup and Melville). This represents  $\frac{1}{3}$  (one third) of all eligible voters in WA. A number of other Councils will also come under this voting regime.

- g) As WA does not have a compulsory voting regime for Local Government, evidence shows the use of postal voting conducted by the WA Electoral Commission has helped in improving voter turnout. No evidence exists to show changes to the existing voting regime will increase additional voter turnout.
- h) Evidence from NSW and Queensland show political, factional and alliance groups have an influence in elections. Whilst there are some influences in WA elections at present, there is no guarantee that these will not increase under the proposed changes.
- i) WALGA tabled an article from *The Age* newspaper dated 13 December 2006 which reported on the 2006 Victorian State election. This was the first election for the Legislative Council under proportional representation. At the time the article was published, *The Age* reported, that two Democratic Labor Party (DLP) candidates were elected with just 2.76% of the primary vote. When the count was finalised the DLP gained one seat in the Legislative Council.<sup>108</sup>



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**Hon Louise Pratt MLC**

**Chair**

**3 April 2007**

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<sup>108</sup> Tim Colebatch, 'Preferences trip up all but the DLP', *The Age*, 13 December 2006.

**APPENDIX 1**  
**WRITTEN SUBMISSIONS RECEIVED**





# APPENDIX 1

## WRITTEN SUBMISSIONS RECEIVED

<b>From</b>	<b>Date</b>	<b>Number</b>
Town of Cottesloe	19/12/06	1
Shire of Broome	20/12/06	2
City of Cockburn	27/12/06	3
Kulin Shire Council	28/12/06	4
Electoral Reform Society of WA (Inc)	28/12/06	5
Shire of Kondinin	02/01/07	6
Shire of Derby/West Kimberley	12/01/07	7
City of Joondalup	18/12/06	8
Shire of Boyup Brook	04/01/07	9
Ms Alicada Link B.App.Sci.JP	08/01/07	10
Shire of Cue	20/12/06	11
Shire of Carnamah	09/01/07	12
Hon Jack Simpson	09/01/07	13
Mr Graham Hawkes	11/01/07	14
City of Subiaco	09/01/07	15
Shire of Narrembeen	09/01/07	16
Shire of Tammin	10/01/07	17
Local Government Managers Association (WA Division)	15/01/07	18
Western Australian Local Government Association	15/01/07	19

<b>From</b>	<b>Date</b>	<b>Number</b>
Shire of Northampton	05/12/06	20
Shire of Goomalling	11/12/06	22
Shire of Koorda	14/12/06	23
City of Gosnells	15/01/07	24
Shire of Cunderdin	15/01/07	25
Town of Victoria Park	16/01/07	26
Shire of Capel	15/01/07	27
City of Canning	17/01/07	28
City of Albany	11/01/07	29
Mr Gordon Payne	15/01/07	30
City of Melville	19/01/07	31
Shire of Corrigin	19/01/07	32
Shire of Mundaring	22/01/07	33
Mr Robert Mitchell	rec 23/01/07	34
Shire of Merredin	18/01/07	35
City of Kalgoorlie-Boulder	19/01/07	36
Town of Kwinana	23/01/07	37
Shire of Wongan-Ballidu	03/01/07	38
Shire of Roebourne	15/01/07	39
Shire of Manjimup	22/01/07	40
Shire of Wyalkatchem	22/01/07	41

<b>From</b>	<b>Date</b>	<b>Number</b>
Shire of Yilgarn	23/01/07	42
Shire of Toodyay	25/01/07	43
Shire of Boddington	24/01/07	44
Shire of East Pilbara	23/01/07	45
Shire of Murchison	23/01/07	46
Shire of Gingin	31/01/07	47
Shire of Esperance	30/01/07	48
Shire of Williams	31/01/07	49
Town of Claremont	30/01/07	50
Cr Steve Magyar	02/02/07	51
Shire of Victoria Plains	rec 06/02/07	52
Shire of Donnybrook - Balingup	31/01/07	53
Local Government Advisory Board	07/02/07	54
Shire of Nannup	07/02/07	55
Shire of Cuballing	07/02/07	56
Town of Bassendean	08/02/07	57
Shire of Coolgardie	07/02/07	58
Mr Syd Wilson, Deputy Mayor, City of Mandurah	08/02/07	59
Shire Nungarin	07/02/07	60
Shire of Upper Gascoyne	08/02/07	61
City of Perth	05/02/07	62

<b>From</b>	<b>Date</b>	<b>Number</b>
Mr Harley E Dymond	12/02/07	63
Ms Robyn Murphy	12/02/07	64
Ms Sarah Seymour	rec 16/02/07	65
Ms Joanne Deanne	rec 16/02/07	66
Mr Michael S Anderton	rec 16/02/07	67
Mr A Falconer	rec 16/02/07	68
Mr Nigel Dickinson	15/02/07	69
Shire of Moora	13/02/07	70
Ms Marilyn G Zakrevsky	rec 17/02/07	71
Shire of Exmouth	14/02/07	72
Mr Jim McKiernan	16/02/07	73
Ms Carolyn Tan	16/02/07	74
Mr Norman Jacka	rec 19/02/07	75
Hon Clive Brown	rec 19/02/07	76
Mr Jackie Ormsby	rec 19/02/07	77
Ms Janice Dudley, Politics & International Studies, Murdoch University	16/02/07	78
Mr Ken Zakrevsky	19/02/07	79
Mrs Sandy Burbridge	18/02/07	80
City of Bunbury	Feb 2007	81

<b>From</b>	<b>Date</b>	<b>Number</b>
Town of Vincent	19/02/07	82
Dr David Worth	17/02/07	83
Shire of Toodyay	rec 20/02/07	84
Ms Pauline Tonkin	19/02/07	85
City of Mandurah	Feb 07	86
Shire of Peppermint Grove	19/02/07	87
Shire of Quairading	20/02/07	88
Lesmurdie Ratepayers Association	20/02/07	89
Shire of Bruce Rock	20/02/07	90
Town of Cambridge	21/02/07	91
City of Bunbury	21/02/07	92
Mr Gary Carson	rec 22/02/07	93
Shire of Kalamunda	21/02/07	94
Mr Andrew Main	rec 23/02/07	95
City of Armadale	Feb 2007	96
Shire of Menzies	rec 23/02/07	97
City of Bayswater	20/02/07	98
Shire of Plantagenet	21/02/07	99
Shire of Bridgetown-Greenbushes	22/02/07	100
Mr Dennis Claughton	rec 23/02/07	101

<b>From</b>	<b>Date</b>	<b>Number</b>
Mr Michael Kitafuna	rec 23/02/07	102
Mr Mark Harris Sandler	rec 19/02/07	103
Mr Dudley Maier	23/02/07	104
Proportional Representation Society of Australia	25/02/07	105
Shire of Harvey	22/02/07	106
Shire of York	23/02/07	107
Shire of Westonia	09/02/07	108
Shire of Busselton	23/02/07	109
Department of Local Government and Regional Development	22/02/07	110
Shire of Chapman Valley	21/02/07	111
City of South Perth	21/02/07	112
Town of Cottesloe	27/02/07	113
Shire of Collie	23/02/07	114
Shire of Ashburton	23/02/07	115
Shire of Coorow	23/02/07	116

**APPENDIX 2**  
**WITNESSES WHO APPEARED BEFORE THE COMMITTEE**





## APPENDIX 2

### WITNESSES WHO APPEARED BEFORE THE COMMITTEE

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<b>Name</b>	<b>Date</b>
Dr Harry Phillips - Parliamentary Fellow (Education) Legislative Assembly, Parliament of Western Australia.	15/01/07
Mr Tim Fowler, Director Capacity Building Division, Department of Local Government	15/01/07
Mr Eric Lumsden, President, Local Government Managers Australia (WA Division).	15/01/07
Mr Warwick Gately, Electoral Commissioner, Western Australian Electoral Commission.	16/01/07
Ms Vanessa Beckingham, Electoral Liaison Officer, Western Australian Electoral Commission.	16/01/07
Mr Phil Richards, Senior Project Officer, Western Australian Electoral Commission.	16/01/07
Cr William Mitchell, President, Western Australian Local Government Association.	16/01/07
Ms Ricky Burgess, Chief Executive Officer, Western Australian Local Government Association.	16/01/07
Mr Wayne Scheggia, Director Policy, Western Australian Local Government Association	16/01/07
Mr Charlie Gregorini, Chairman, Local Government Advisory Board.	16/01/07