

Te Taumata Runanga

**Monday, 19 August 2002
Commencing at 5.00 pm**

**Item 11a: Electoral System for 2004
Elections**

**SUPPLEMENT TO AN ORDINARY MEETING OF TE TAUMATA RUNANGA TO BE HELD IN
THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON MONDAY, 19 AUGUST 2002, COMMENCING AT 5.00 PM.**

11a ELECTORAL SYSTEM FOR 2004 ELECTIONS

PURPOSE OF THE REPORT

The Local Electoral Act 2001 (LEA) gives each local authority the opportunity to review the electoral system to be used for the election of members. Consideration should be given by 12 September 2002, whether to retain the First Past the Post (FPP) electoral system or adopt the Single Transferable Vote (STV) electoral system, although a final decision (to hold a poll) can still be made up until 28 February 2003.

BACKGROUND

In May 2001, the LEA was enacted. This Act significantly altered the previous legislation governing the conduct of local government and district health board (DHB) elections in New Zealand. The new Act provides local authorities with greater flexibility and local choice in many electoral matters. The principal issue requiring consideration by local authorities now is the choice of electoral system (between FPP and STV) to be adopted for the 2004 triennial elections. Each local authority should give consideration of this issue in the year two years before a triennial election (by 12 September 2002).

Traditionally, FPP has been the only electoral system used for all local government, licensing trusts and DHB elections in New Zealand. The new legislation makes the use of STV mandatory for DHB elections from 2004, using Meek's method of counting votes with certain modifications. Councils are required to conduct the DHB elections on their behalf.

LEGISLATIVE TIMETABLE

The LEA requires a local authority to comply with the following timeline when deciding which electoral system will be used:

By 12 September 2002	A local authority MAY resolve to change the electoral system (from the system it used at the 2001 general election) for the next triennial election.	Section 27 of LEA
By 19 September 2002	A local authority MUST give public notice of the right of 5% of the electors to demand a poll on the future electoral system for the next two triennial elections, and if a resolution has been made by a local authority by 12 September 2002, then this must be included in the notice.	Section 28 of LEA
By 18 December 2002	A 90 day period MUST be given following the public notice allowing electors to gather sufficient signatures to demand that a poll be held to change the electoral system for the next two triennial elections.	Section 30 of LEA



By 28 February 2002	A local authority MAY resolve to undertake a poll of electors on a proposal that a specified electoral system be used for the next two triennial elections.	Section 31 of LEA
By 21 May 2002	If a successful demand has been received by 18 December 2002 to hold a poll or a resolution has been made by a local authority by 28 February 2003, then a poll MUST be held within 82 days of notification.	Section 33 of LEA

PROCESS TO FOLLOW

The process that the Council can follow to determine its electoral system for 2004 and beyond is:

- (i) Council can make a decision on which electoral system is to be used, with the required public notification to follow.
- (ii) Five per cent of electors can demand a poll on the issue.
- (iii) Council may choose of its own volition to hold a poll on the issue, irrespective of whether or not a poll is demanded by electors.

More specifically:

ABILITY OF COUNCIL TO RESOLVE WHICH ELECTORAL, SYSTEM IS TO BE USED

Section 27 of the LEA provides that the Council may resolve of its own volition to change an electoral system that is different to the system used at the previous triennial election. If it decides on a change, it must do so not later than 12 September two years prior to the next triennial election, unless it decides to hold a poll of electors. Therefore, if the Council wishes to consider changing its system from FPP to STV for the 2004 elections, it must do so before 12 September 2002.

Any such resolution will take effect for the 2004 elections, and will continue in effect until either the Council resolves otherwise, prior to 12 September two years prior to the 2007 elections, or a poll of electors is held. (The Local Government Bill includes a provision that should a Council resolve to change its electoral system by resolution, and no poll is held, the new system must be used for the next two elections, and not just one election, as presently required by Section 27 of the LEA. This requirement may or may not be embodied in the provisions of the new Local Government Act when finally enacted).

ELECTORS' RIGHT TO DEMAND A POLL

Prior to 19 September 2002, the Council must give public notice of the right to demand a poll on the electoral system to be used for the next two triennial general elections of the Council and its Community Boards. If the Council has passed a resolution under Section 27 of LEA to change the electoral system from FPP to STV the public notice must include:

- (a) Notice of that resolution; and
- (b) A statement that a poll is required to countermand that resolution.



Section 29 of the LEA allows 5% of the electors enrolled at the previous triennial general election to demand a binding poll to be held on a proposal to determine which electoral system is to be used for the next two triennial elections. The poll demand must be made in writing to the Chief Executive by a number of electors equal to or greater than 5% of the electors and must be made no later than 90 days after the date of the public notice of the Council's decision.

THE COUNCIL MAY DECIDE OF ITS OWN VOLITION TO HOLD A POLL OF ELECTORS

The Council can also decide of its own volition to hold a poll of electors at any time during the process (until 28 February 2003), irrespective of whether a valid demand has been received, or the time has expired for electors to demand a poll.

Public notice of the poll must be given not later than 28 February 2003.

The results of the poll are binding and will determine whether FPP or STV is to be used for at least the next two triennial elections, and for all subsequent elections until either a further resolution under Section 27 LEA takes effect or a further poll is held.

STV INFORMATION PROGRAMME

An STV Taskforce consisting of representatives from the Department of Internal Affairs, Ministry of Health, Electoral Commission, Te Puna Kokiri, Ministry of Pacific Island Affairs, Local Government New Zealand and the Society of Local Government Managers has been regularly meeting on the introduction of STV into the New Zealand local government scene.

The Taskforce has prepared an authoritative STV resource document, a copy of which is attached to this report. This document formed the basis of presentations on STV to the May round of the Local Government New Zealand Zone meetings.

The STV resource document covers:

- description of the LEA requirements and timelines governing the adoption and use of STV;
- neutral description of what STV is and how it works using the Meek system;
- comparison of STV and FPP;
- a description of the STV calculator software - what it will do, how it was developed and audited, and how it will be licensed and made available to all local authorities; information on the possible costs of introducing STV, particularly the costs associated with linking the data capture technology of a local authority to the STV calculator.

The development of the STV resource document is the first stage in the FPP/STV information programme. The second stage will include the preparation and funding of a public education programme on FPP/STV, including the provision of a plain English information pamphlet which can be made available from libraries, Council offices, accompany rates notices or with voting papers should a poll be required etc.

ASSOCIATED ISSUES FOR CONSIDERATION

Associated issues that should be considered by local authorities when debating the issue of choosing an electoral system, include:

- impact of the boundaries and representation review under the Local Government Act 1974 and including the Local Government Bill where members may be represented from wards, at large or mixture of wards and at large; the ability to provide for separate Maori wards [refer section 2.6 of the STV resource document];
- additional election costs if STV is adopted [refer section 5 of the STV resource document];



- potential for some public confusion with two electoral systems running simultaneously [refer section 4.5 of the STV resource document];
- timing of the release of results on election day [refer section 2.6 of the STV resource document];
- costs associated with public consultation/education/poll [refer section I of the STV resource document].

CONSULTATION

Generally there has been little or no specific sector information or consultation on this issue to date. However, for the public to participate in the decision process in an informed manner, there is a need for wide education on the issue. The Government has made limited provision for a public education programme, but this is not expected to include television advertising etc. As a consequence, much of the public consultation and education programme may well fall on local authorities.

Should a poll be required (by either a public demand or by Council resolution), it is hoped this can be managed to occur between March 2003 and May 2003 to coincide with the limited national public education programme.

PROCESS OPTIONS FOR CONSIDERATION

In summary, a local authority may consider adopting one of the following options:

OPTION A: Undertake Public Consultation Now

Council could commence public consultation now (July and August) through a process similar to that used for say a rating review or annual plan process and actively seek input from the community prior to making a decision itself by 12 September 2002. Electors could still call for a binding poll if they wished. This approach would mean that the Council may have to run its own public education programme, which could be done quite simply and inexpensively using public meetings, its own newsletter/newspaper and local promotion.

OPTION B: Make a Decision and Publicly Notify It

Council could make its preliminary decision to retain the status quo (FPP) or change to STV, on the basis of this report and the attached STV resource document, The period after publicly notifying the community of Council's decision and electors' right to demand a poll (19 September - 18 December) and the poll period itself could be treated as the consultation period. The proposed national public education programme is likely to take place during the poll period, so any decision to raise awareness of the issues immediately after advertising the Council's decision and the right to demand a poll, would still have to be addressed locally by each Council. A binding poll could then follow, if 5% of electors made a valid demand.

OPTION C: Resolve to Hold a Poll

Council could defer its decision and simply resolve to hold a poll of electors. The decision to hold a poll could be made anytime prior to 28 February 2003, but a public notice by 19 September 2002 would still be required. This option would need to be budgeted for, together with some public education costs. This option would fit better with plans for a national education programme expected in early/mid 2003.

OPTION D: Do Nothing

Council could effectively do nothing and simply give public notice by 19 September 2002 that electors have the right to demand a poll on the electoral system to be used for the next two triennial elections. If no demand for a poll is received, the status quo remains, i.e. FPP continues to be used for the 2004 elections.



LEGAL AND FINANCIAL IMPLICATIONS

The legal implications have been covered in this report. The financial implications of the issue are varied.

If Council decides to consult (Option A), the cost is estimated at \$30,000 that will need to be paid for this year.

If Council is required to hold a poll (Option A, Option B or Option D), or separately chooses to hold a poll (Option C), the cost is estimated at \$160,000-\$180,000, which again will need to be paid for this year.

If Council itself decides to change to STV voting for the 2004 elections, the additional election cost is estimated at \$75,000.

SUMMARY

A local authority, in reaching a decision on which electoral system best suits its community, needs to consider carefully the STV resource document and the associated issues raised in this report. The new local electoral legislation clearly intends that the electoral system chosen be a local choice for a local community.

As a practical measure, a local authority should consider each of the suggested four options under section 9 of this report, by 12 September 2002, with the view to giving public notice by 19 September 2002 of electors' right to demand a poll on the electoral system to be used for the next two triennial elections.

If Council itself decides to carry out a poll of electors on a proposal that a specified electoral system is to be used, then it must resolve to do so no later than 28 February 2003.

RECOMMENDATIONS

1. That the information be received.
2. That Council adopts *either*:
 - (i) Option A and undertakes public consultation now on the electoral system to be used for the next triennial election, so that any ensuing decision reached by the Council prior to 12 September 2002 and the public notice required by 19 September 2002, can reflect the consultation undertaken; or
 - (ii) Option B and reaches a preliminary decision on either retaining the FPP electoral system or changing to the STV electoral system for the next triennial election, and this decision be publicly notified by 19 September 2002; or
 - (iii) Option C and resolves before 28 February 2003 to undertake a poll of electors on the electoral system to be used for the next two triennial elections, such a poll to be held to coincide with a national public education programme between March and May 2003; or
 - (iv) Option D and chooses to do nothing but publicly notify of a right to demand a poll on the electoral system to be used for the next two triennial elections by 19 September 2002.

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