

**12.1 - Councillor Questions of which Notice has been Given - WA State Government Local Government Act Reforms (SJ4087)**

<b>Councillor</b>	Councillor Byas
<b>Disclosure of Officers Interest:</b>	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

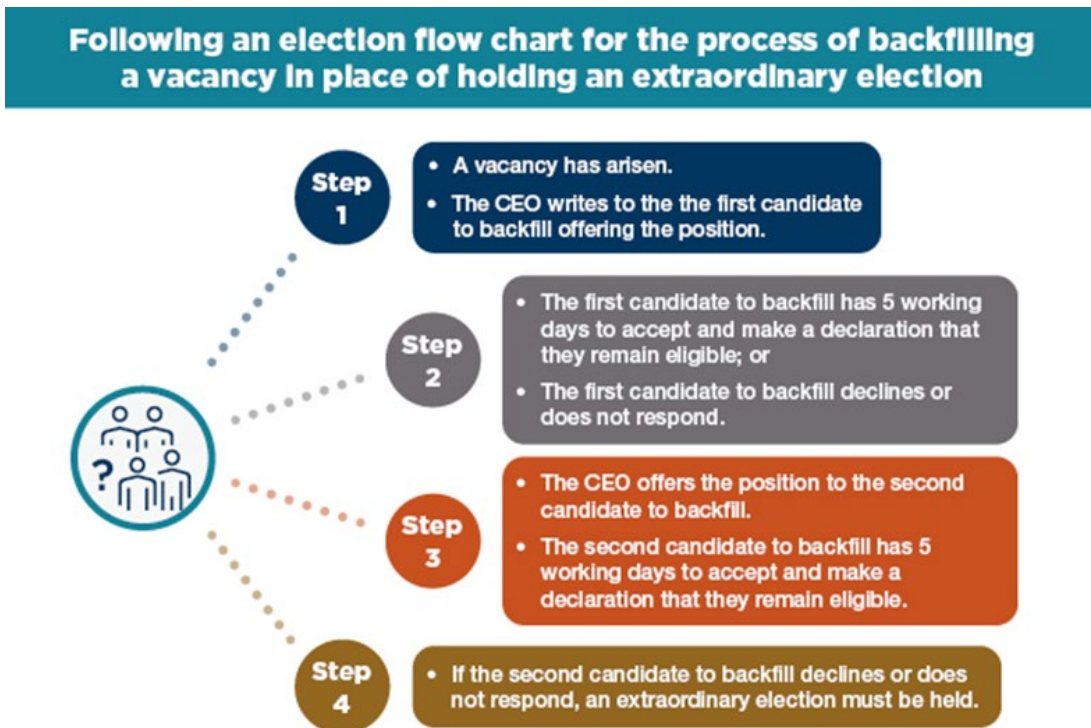
The following questions were received from Councillor Byas via email on Monday, 11 September 2023.

**Question 1**

I understand that the Local Government Act reforms allow for “countback” provisions to fill casual vacancies - is that correct and, if so, what is the process for the countback to occur?

**Officer Response**

Yes, the reforms to the *Local Government Act 1995* (the Act) have introduced new means to fill vacancies in certain circumstances. Schedule 4.1A and 4.1B of the Act provides for the filling of vacancies using backfilling provisions. The Department of Local Government, Sport and Cultural Industries has produced the following flowchart to explain how backfilling works which involves the first and second unsuccessful candidates in the relevant election being given the option to fill the remaining term with the option given initially to the first unsuccessful candidate:



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## Question 2

If an ordinary councillor election is not held in a ward where a casual vacancy is created - for example, through the popularly elected Mayor/President election - that would mean a countback wouldn't be possible, forcing the casual vacancy to be filled by an extraordinary election?

### Officer Response

The backfilling provisions only apply in certain circumstances. For the backfilling provisions to apply an election using the optional preferential voting must have occurred in the ward or district in the previous twelve months to fill a relevant vacancy in that ward or district.

## Question 3

There will not be an ordinary councillor election in the North Ward at the October 2023 election; if a casual vacancy is created through the popularly elected President election:

- Would an extraordinary election need to be held to fill the casual vacancy?
- What would be the timeframe?
- What would be the costs associated with conducting the election for the 1x North Ward vacancy?
- Has an amount been budgeted for to cover the cost of an extraordinary election following the October 2023 ordinary election?
- What would be the format, i.e., in-person vs. postal?

### Officer Response

Yes. Until a vacancy is filled in the North Ward using the Optional Preferential Voting method, any vacancy created in the North Ward for any reason would necessitate an extraordinary election.

Section 4.9 of the *Local Government Act 1995* provides that:

1. *Any poll needed for an extraordinary election is to be held on a day decided on and fixed —*
  - a. *by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or*
  - b. *by the Council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).*
2. *The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.*

The costs of holding an extraordinary election would be dependent on a range of factors such as whether the election was conducted in person or using the postal method, and if the in-person method was used the number of early voting and polling day polling places. As a guide, the costs of conducting the Fresh Election in the North Ward in 2022 were estimated to be \$22,000 for an in-person election and \$30,000 for a postal election.

The 2023-24 budget adopted by Council contains an election reserve which would be exhausted by the conduct of the 2023 ordinary local government election. As such the funding for any elections other than the 2023-24 ordinary local government election would need to occur through a budget reallocation.



Continued

**Ordinary Council Meeting – 18 September 2023 - 12.1 - Councillor  
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In the event that an extraordinary election is required to be held for any reason, Council would need to determine who is to perform the role of Returning Officer and the means of conducting the election, noting that only the WAEC is permitted to conduct a postal election.