

Penang to table local gov't elections bill this month
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By Susan Loone

The Penang administration will soon table a bill in the state legislative assembly to restore local government elections, said state executive councillor Chow Kon Yeow yesterday.

Chow said the bill - the Enactment for Local Elections in Penang Island and Province Wellesley - will be tabled at this month's sitting which starts on April 30.

In tabling the bill, Penang will be putting the state on a collision course with the federal government, which has argued that such an action is outside its jurisdiction.

NONEChow contended that under the federal constitution, local government affairs are under the preview of the state administration.

"Some quarters may have a different opinion about it, but we are using what has been provided under the constitution to enact a state law," he said at a press conference.

"We are in the midst of finalising the draft bill. We shall organise a public forum before tabling the bill, and there would be a panel discussion to go through the draft bill," he stressed.

In August 2009, the state moved a resolution in the Dewan Undangan Negeri calling on the federal government to bring back local government elections, and this was passed after some debate.

The state government then engaged a team of lawyers to advise Penang on how to hold local elections in according to the provisions in the law.

Chief Minister Lim Guan Eng had then written to the Election Commission (EC) in 2010 requesting for local elections, but the commission rejected the state's request, which resulted in the latter to institute legal proceedings.

According to Chow, once the bill is passed, the issue will go to court. The state government will file a case to seek a judgment on whether the matter is ultra vires.

He said the court would be asked to compel the EC to hold the elections if the decision is on "our side".

"If it is not, then it is the end of the story. We will let the court decide," he added.

First election in 18 months

Based on the draft bill, the authority has to hold the first election within 18 months after the bill has been passed and gazetted. Local elections need to be held every three years.

Each local government is allowed to elect not more than 50 councillors, including the mayor.

However, there will be no direct voting for the mayor as the latter will pick his team from the elected councillors.

Chow added the state legal advisor has already approved the English version of the draft bill, and that the national language version is being prepared.

"The bill was drafted by modifying the 1960 Local Government Elections Act (federal law) and was

adjusted according to the Penang context," Chow told reporters.

"First we have to negate section 15 of the Act which nullifies all local government elections," he said.

malaysian law conference 301007 tommy thomas 2Section 15 of the Act states: "Notwithstanding anything to the contrary contained in any written law, all provisions relating to local government elections shall cease to have force or effect."

State legal advisor Tommy Thomas (right) has suggested the state to issue a gazette notification exempting all the local authorities within Penang from applying section 15 of the Act.

This would result in section 15 not being applicable in Penang and the first step towards seeking a court declaration to compel the EC to conduct the local elections.

"So what comes after the exemption? The bill is the answer and we want to pass a law to hold local elections," he said.

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