

House of Assembly—No 255

As laid on the table and read a first time, 19 October 2017

South Australia

**Electoral (Government Advertising) Amendment
Bill 2017**

A BILL FOR

An Act to amend the *Electoral Act 1985*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Electoral (Government Advertising) Amendment Act 2017*.

2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Electoral Act 1985*

10 3—Amendment of section 130Q—Payment not to be made or to be reduced in certain circumstances

Section 130Q—after subsection (4) insert:

- 15 (4a) To avoid doubt, if the amount by which an amount that would, but for subsection (4), be payable to an agent under this Division is to be reduced exceeds the amount so payable—
 - (a) the amount of that excess need not be repaid by the agent or any other person or body; and
 - (b) the amount of that excess is not to be applied against or otherwise taken into account in respect of future payments under this Division.
- 20

4—Insertion of section 130ZBA

After section 130ZB insert:

130ZBA—Certain government advertising may be treated as political expenditure

- 5 (1) If the Electoral Commissioner is satisfied that prescribed government advertising has been funded by the use of public money, the Electoral Commissioner may determine that the prescribed amount will, subject to this section, be treated as political expenditure of the relevant person for the purposes of this Part.
- 10 (2) The Electoral Commissioner must, as soon as is reasonably practicable after making a determination under subsection (1), give the agent of the relevant person a notice—
- 15 (a) setting out the prescribed amount; and
- (b) specifying that the Electoral Commissioner has determined that the prescribed amount will be treated as political expenditure of the relevant person for the purposes of this Part, unless the relevant person elects to repay the prescribed amount in accordance with this section; and
- 20 (c) informing the agent as to the steps that the relevant person must take if the relevant person wishes to elect to repay the prescribed amount.
- (3) If the relevant person elects to repay the prescribed amount to the Treasurer—
- 25 (a) the relevant person must, within 14 days of receipt of the notice under subsection (2), pay the prescribed amount to the Treasurer for payment into the consolidated account; and
- (b) the agent of the relevant person must, within 3 days of that payment, give the Electoral Commissioner written notice of the making of the payment (setting out the amount paid).
- 30 (4) If a notice under subsection (3)(b) is given to the Electoral Commissioner, the determination of the Electoral Commissioner under subsection (1) in relation to the relevant person will be taken to be void and of no effect.
- 35 (5) For the purposes of this section, a reference to *public money*, in relation to a relevant person, will be taken not include a reference to—
- (a) the common allowance payable to the relevant person under the *Parliamentary Remuneration Act 1990*; or
- 40 (b) an electoral allowance payable to the relevant person under the *Parliamentary Remuneration Act 1990* or any other Act (not being a payment under this Part).

(6) In this section—

cost, in relation to prescribed government advertising, includes the cost of creating and publishing the prescribed government advertising and any administrative costs in connection with causing the prescribed government advertising to be created and published;

prescribed amount, in relation to prescribed government advertising, means the estimated total cost of the prescribed government advertising;

prescribed government advertising means an advertisement (or, if the advertisement forms part of a series of advertisements with the same or similar subject matter, a series of advertisements) published on or after 1 November 2017 that—

(a) relates to the government or any government activities, programs or initiatives; and

(b) expressly mentions the name, displays the image or uses the voice of a person who—

(i) is a member of Parliament or a candidate in an election; and

(ii) is a person to whom this Division applies;

relevant person, in relation to prescribed government advertising, means the person whose name is mentioned, image is displayed or voice is used in the prescribed government advertising.