

House of Assembly—No 53

As laid on the table and read a first time, 4 December 2014

South Australia

Commission of Inquiry on Water Pricing Bill 2014

A BILL FOR

An Act to provide for a Commission of Inquiry into water pricing; to provide evidentiary powers and immunities in connection with the inquiries; and for other purposes.

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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Commission of Inquiry on Water Pricing Act 2014*.

2—Interpretation

In this Act, unless the contrary intention appears—

5 **commissioner** means the commissioner appointed to conduct the commission of inquiry under section 4;

Inquiry means the commission of inquiry established under this Act;

SA Water means the *South Australian Water Corporation* established under the *South Australian Water Corporation Act 1994*;

10 **water pricing** means prices and price-fixing factors, including supply and usage charges, for services provided by SA Water to consumers or users in South Australia for the sale and supply of—

(a) water for use by the consumer or user where the water is to be conveyed by a reticulated system; or

15 (b) sewerage services for the removal of sewage.

3—Terms of reference of Inquiry

The terms of reference of the Inquiry are to inquire into and report on—

20 (a) water pricing for consumers or users of water in South Australia, including the reasons why water charges in South Australia are higher than in other Australian States and Territories; and

(b) economic, legislative and other reform of the water industry that would promote water pricing that would result in lower charges to consumers or users of water in South Australia, in particular reform of the role in the regulation of water pricing of—

25 (i) SA Water and the Minister responsible for the administration of the *South Australian Water Corporation Act 1994*; and

- (ii) the Essential Services Commission established under the *Essential Services Commission Act 2002* and Minister responsible for the administration of that Act; and
- (iii) the Treasurer.

4—Constitution of Inquiry

- (1) A commission of inquiry is established.
- (2) The Inquiry is to be constituted by a commissioner appointed by the Governor.
- (3) An appointment made under subsection (2) will be on conditions determined by the Governor.
- (4) If the person appointed by the Governor as commissioner is a Judge or former Judge within the meaning of the *Judges' Pensions Act 1971* then the following provisions will apply in relation to the person so appointed despite the provisions of that Act:
 - (a) the person will, while holding office under this Act, be taken to be in judicial service within the meaning of, and for the purposes of, the *Judges' Pensions Act 1971*;
 - (b) if relevant, the person will be taken not to have retired or resigned from judicial service for the purposes of the *Judges' Pensions Act 1971* until he or she completes his or her term of office under this Act.
- (5) The term of office of the commissioner under this Act will be determined to have come to an end on a day fixed by the Minister by notice in writing to the commissioner.

5—Procedure

In conducting the Inquiry, the commissioner—

- (a) will not be bound by any rules or practices as to procedure or evidence, and may inform himself or herself in such a manner as the commissioner thinks fit; and
- (b) must seek to adopt procedures that will ensure wide consultation is undertaken, in a cost-effective way, on matters relevant to the Inquiry; and
- (c) may sit at any time and in any place and may adjourn sittings from time to time and from place to place; and
- (d) may take evidence in public or in private; and
- (e) may refer any matter to an expert for advice, investigation or report; and
- (f) may publish any information the commissioner thinks fit.

6—Staff

- (1) The commissioner may employ such staff as the commissioner thinks necessary for the proper conduct of the Inquiry.
- (2) A person employed under this section is not a Public Service employee.
- (3) The commissioner may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

7—Obligation to give evidence

- (1) If a person refuses or fails—
- (a) to comply with a summons issued under this Act; or
 - (b) to make an oath or affirmation when required to do so by the commissioner;
or
 - (c) to answer a question on a subject relevant to the Inquiry to the best of the person's knowledge, information and belief,

the Supreme Court may, on application by the commissioner, compel the attendance of the person before the Court to give evidence or to produce evidentiary material for the purposes of the Inquiry.

- (2) A person who, without reasonable excuse, refuses or fails—
- (a) to comply with a summons issued under this Act; or
 - (b) to make an oath or affirmation when required to do so by the commissioner;
or
 - (c) to answer a question on a subject relevant to the Inquiry to the best of the person's knowledge, information and belief,

is guilty of an offence.

Maximum penalty: \$10 000.

8—Presentation of report

- (1) The commissioner must complete the Inquiry, and prepare a report on its outcome—
- (a) before 31 December 2015; or
 - (b) if the commissioner determines, by notice in writing to the Minister, that it is not reasonably practicable to complete the Inquiry and report before 31 December 2015—as soon as is reasonably practicable after that date.
- (2) The report required under this section must be delivered to the Governor.
- (3) The Minister must cause a copy of the report to be laid before each House of Parliament within 3 sitting days after the receipt of the report by the Governor.

9—Protection to commissioner and witnesses

- (1) The commissioner has, in connection with the conduct of the Inquiry and in respect of a report required under section 8, the same protection, privileges and immunities as a Judge of the Supreme Court.
- (2) A person who appears before the Inquiry, or who provides evidentiary material to the Inquiry, has the same protection, privileges and immunities as a witness in proceedings before the Supreme Court.
- (3) A legal practitioner who represents a person in connection with the Inquiry has the same protection, privileges, immunities and obligations as counsel involved in proceedings before the Supreme Court.