

# **House of Assembly—No 201**

As laid on the table and read a first time, 17 October 2013

South Australia

## **Government Election Financial Responsibility Bill 2013**

A BILL FOR

An Act to improve government pre-election financial responsibility and reporting; 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 *Government Election Financial Responsibility Act 2013*.

### 2—Interpretation

- (1) In this Act, unless the contrary intention appears—

- 5 *budget year* means the financial year to which a budget relates;
- business day* means any day except Saturday, Sunday or a public holiday;
- contingent liability* means a liability that may be incurred, subject to the occurrence of a certain event;
- 10 *designated public financial corporation* means a corporation that the Treasurer, in preparing a financial outlook report, determines should be regarded as a designated public financial corporation;
- designated public non-financial corporation* means a corporation that the Treasurer, in preparing a financial outlook report, determines should be regarded as a designated public non-financial corporation;
- 15 *economic forecast* means a forecast of economic conditions;
- expenditure* means the expenditure of government monies;
- external reporting standard* means a reporting standard prepared by a professional body that is independent of the State government;
- 20 *financial estimates*, for a particular financial year, means estimates of expenditures and receipts of public money for that year;
- financial outlook report* means a report prepared under section 4;
- forward estimates*, for a particular financial year, means financial estimates for that year;
- general election* means a general election of members of the House of Assembly;
- 25 *government* means the State government;
- liability* means an outstanding liability that has been incurred;

**parliamentary party** means a political party registered under the *Electoral Act 1985* at least 1 member of which is a member of the Parliament of the State;

**political interference or direction**—see subsection (2);

**program** means an activity of government that requires expenditure;

5 **SA government sector** means—

(a) the agencies of the government, including Ministers, government departments, offices and authorities, engaged in the normal business of government or in providing services free of charge or at prices significantly below their cost of provision or production; and

10 (b) all central borrowing authorities of the government; and

(c) all agencies or instrumentalities of the Crown established by statute,

and includes all funds administered by those agencies, authorities and instrumentalities, and any fund established by statute, but does not include a designated public financial corporation, a designated public non-financial corporation or the funds administered by such a corporation;

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**State budget or budget** means the financial papers, statements, reports and other documents presented to Parliament when the *Appropriation Bill* for a particular financial year is introduced to Parliament;

20 **Treasurer's Department** means the administrative unit of the Public Service that is primarily responsible for assisting the Treasurer in the performance of his or her functions;

**Under Treasurer** means the person for the time being holding or acting in the office of Under Treasurer;

**whole of government** means—

25 (a) the SA government sector; and

(b) a designated public financial corporation; and

(c) a designated public non-financial corporation; and

(d) any funds administered by a corporation referred to in a preceding paragraph.

(2) For the purposes of this Act, a report will be taken to have been prepared with political interference or direction if a public sector employee—

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(a) received an instruction or direction in relation to the preparation of the report from a Minister or from a person acting or apparently acting on behalf of a Minister; or

35 (b) received an express or implied offer, threat or inducement from any other person intended to influence the professional judgment of the public sector employee in relation to the preparation of the report.

### 3—Exclusion of judicial proceedings

Nothing in a strategy, report or other document prepared or published under this Act gives rise to a right or cause of action that is enforceable or maintainable in judicial or other proceedings.

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#### 4—Financial outlook report

(1) The Treasurer must release a *financial outlook report* as part of each State budget.

(2) A financial outlook report must include the following information:

(a) SA government sector financial estimates for the financial year before the budget year and for the budget year including—

(i) expenditure by the SA government sector (by program); and

(ii) receipts of public money by the SA government sector (by type);

(b) whole of government financial estimates for the budget year;

(c) SA government sector and whole of government forward estimates for the 3 financial years following the budget year (prepared on the basis that, for each financial year, there are no changes in taxes or programs due to a decision of government during that year);

(d) a list of government liabilities, quantified where possible.

(3) The information in a financial outlook report must take into account—

(a) the quarterly statements published by the Treasurer under section 40 of the *Public Finance and Audit Act 1987*; and

(b) to the fullest extent possible—all government decisions, relevant economic forecasts and all other risks and circumstances that may have a material effect on the financial outlook.

(4) A financial outlook report must—

(a) be based on external reporting standards; and

(b) identify such standards and any departure from such standards; and

(c) be based on the best professional judgment of officers of the Treasurer's Department; and

(d) be prepared without political interference or direction.

#### 5—Election financial report

(1) The Under Treasurer must, within 5 business days after the issue of writs for a general election, prepare and publicly release an *election financial report*.

(2) An election financial report must include—

(a) an update of the estimates published in the most recent financial outlook report including:

(i) SA government sector and whole of government financial estimates for the remainder of the budget year referred to in the financial outlook report;

(ii) SA government sector and whole of government forward estimates for the 3 financial years following that budget year; and

(b) an explanation for each departure from the estimates in the financial outlook report, identifying (as far as is reasonably possible) departures attributable (wholly or in part) to—

- (i) changes in policy; or
    - (ii) changes in economic conditions; or
    - (iii) changes in expenditure on a program due to demographic changes or changes in other physical characteristics; or
    - 5 (iv) any other changes; and
  - (c) an explanation for any changes in the economic forecast since the preparation of the estimates in the most recent financial outlook report; and
  - (d) details of any outstanding issue with a financial implication of \$1 million (indexed) that will require resolution by the government after the election; 10 and
  - (e) details of any changes from the government liabilities published in the most recent financial outlook report and an explanation for those changes; and
  - (f) any other financial information that should, in the opinion of the Under Treasurer, be available to the parties contesting the election.
- 15 (3) To help the Under Treasurer prepare an election financial report, the Premier, the Treasurer and the Minister for Finance (if any) must, within 2 business days after the issue of writs for a general election, disclose to the Under Treasurer details of any government decision, or of any other decision, that the Premier, Treasurer or Minister for Finance knows about—
- 20 (a) that has, or could have, material financial implications; and
  - (b) that the Under Treasurer could not reasonably be expected to know about.
- (4) An election financial report must—
- 25 (a) be based on the same external reporting standards as apply to the most recent financial outlook report; and
  - (b) identify such standards and any departure from such standards; and
  - (c) be based on the best professional judgment of officers of the Treasurer's Department; and
  - (d) be prepared without political interference or direction.
- 30 (5) An election financial report must include a certificate from the Under Treasurer declaring that the Under Treasurer is satisfied that—
- (a) the necessary disclosures have been made under subsection (3); and
  - (b) the requirements of subsection (4) have been complied with.
- (6) An election financial report need not include—
- 35 (a) details of contingent liabilities, or information connected with government negotiations or decisions that have not been finalised, if the Under Treasurer has determined that the exclusion of that information is in the public interest; or
  - (b) information that the Under Treasurer considers to be confidential commercial information.

(7) The Auditor-General must include a report on the appropriateness of any determination under subsection (6)(a) in the Auditor-General's annual report under the *Public Finance and Audit Act 1987* for the financial year in which the determination is made.

5 (8) A reference in subsection (2)(d) to an amount of \$1 million (indexed) is a reference to an amount adjusted on 1 July of each year (beginning on 1 July following the commencement of this section) by multiplying the amount of \$1 million by a proportion obtained by dividing the Consumer Price Index for the March quarter of the immediately preceding financial year by the Consumer Price Index for the March  
10 quarter, 2013 (with the amount so adjusted being calculated to the nearest multiple of \$1 000).

(9) In this section—

*Consumer Price Index* means the Consumer Price Index (All groups index for Adelaide).

## 15 **6—Under Treasurer to brief Opposition on unexpected changes**

If, following the release of an election financial report but before the end of the election period, the Under Treasurer becomes aware of a change or possible change to the financial circumstances of the State (as outlined in the election financial report) that is of sufficient significance as to require the government to be briefed on the  
20 change (for example, an increase or decrease in Commonwealth revenue to the State), the Under Treasurer must, on the same day as the government is briefed on the change, give a briefing on the change to the Leader of the Opposition and the Leader of any other parliamentary party.

## **Schedule 1—Transitional provision**

### 25 **1—Election financial report relating to general election on third Saturday in March 2014**

For the purposes of the election financial report relating to the general election to be held on the third Saturday in March 2014—

30 (a) a reference in section 5 to the most recent financial outlook report will be taken to be a reference to the 2013/2014 State budget and section 5 will then apply subject to such modifications as the Under Treasurer considers to be necessary or appropriate; and

35 (b) a reference in this Act to a designated public financial corporation will be taken to be a reference to a corporation that the Under Treasurer, in preparing the election financial report, determines should be regarded as a designated public financial corporation; and

40 (c) a reference in this Act to a designated public non-financial corporation will be taken to be a reference to a corporation that the Under Treasurer, in preparing the election financial report, determines should be regarded as a designated public non-financial corporation.