

House of Assembly—No 113

As laid on the table and read a first time, 24 March 2016

South Australia

**Local Government (Rate Increases) Amendment
Bill 2016**

A BILL FOR

An Act to amend the *Local Government Act 1999*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Local Government Act 1999*

- 4 Amendment of section 153—Declaration of general rate (including differential general rates)
- 5 Insertion of section 302C
302C Review of certain operations of Act

Schedule 1—Transitional provision

- 1 Transitional provision
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Local Government (Rate Increases) Amendment Act 2016*.

2—Commencement

This Act will come into operation on 1 July 2016.

3—Amendment provisions

- 10 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 *Local Government Act 1999*

4—Amendment of section 153—Declaration of general rate (including differential general rates)

Section 153—after subsection (5) insert:

- 15 (6) For the purposes of this section, ESCOSA must determine on a quarterly basis an index that measures changes in the costs incurred by councils for ordinary council activities funded from revenue from general rates (the *Local Government Cost Index*).
- 20 (7) ESCOSA must, within 7 days of making a determination of the Local Government Cost Index, publish the determination in the Gazette and on a website determined by ESCOSA.

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- (8) ESCOSA must, by notice in the Gazette published not later than 31 December in each year, determine the ***local government cost inflation rate*** for the following financial year.
- (9) In determining the local government cost inflation rate, ESCOSA must have regard to—
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- (a) the average of the Local Government Cost Index for the 4 quarters of the immediately preceding financial year; and
- (b) the CPI for the quarter immediately preceding the determination,
- and may have regard to any other matter ESCOSA thinks relevant.
- (10) Subject to a determination of ESCOSA under subsection (11) to the contrary, a council must not fix rates under this section for a particular financial year that will result in the council recovering from general rates charged on land within the area of the council for that financial year an amount (in total) that exceeds the sum of—
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- (a) the amount (in total) recovered (or expected to be recovered) by the council from general rates charged on the same land for the immediately preceding financial year; plus
- (b) an amount determined by multiplying the amount referred to in paragraph (a) by the local government cost inflation rate for that financial year.
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- (11) ESCOSA may, on an application under this subsection by a council, if satisfied that it is appropriate to do so, make a determination under the *Essential Services Commission Act 2002* that—
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- (a) if the application is of a kind contemplated by subsection (16)—the council may fix rates for the financial years (not exceeding 5) to which the application relates; or
- (b) in any case—the council may fix rates for the financial year to which the application relates,
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- such that the council will recover from general rates in that year or years an amount that exceeds the amount authorised under subsection (10) by an amount specified by ESCOSA in the determination (whether by reference to a percentage increase or otherwise).
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- (12) An application under subsection (11) must—
- (a) be made before 1 April in the financial year immediately preceding the particular financial year in which it is proposed that the rates will apply; and
- (b) be made in the manner and form determined by ESCOSA; and
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- (c) set out the reasons for the proposed rate of increase in general rates above the local government cost inflation rate; and

(d) include, so far as is reasonably practicable, information as to the likely impact of the proposed increase on ratepayers; and

(e) include such other information as is determined by ESCOSA.

5 (13) A council must, in relation to an application under subsection (11)—

(a) follow its public consultation policy; and

(b) comply with the requirements set out in the guidelines published under subsection (18), as in force from time to time.

10 (14) A council must cause an application under subsection (11) to be published—

(a) on a website determined by the council; and

(b) on a website determined by the LGA.

15 (15) ESCOSA must cause an application under subsection (11) to be published on a website determined by ESCOSA.

(16) The following provisions apply in relation to an application under subsection (11)—

20 (a) ESCOSA may, without further inquiry, be satisfied that it is appropriate to make a determination under that subsection if—

(i) the application relates to, or forms part of, a financial plan of the council extending not more than the 5 financial years following the date of the application; and

25 (ii) the council has complied with subsection (13) in relation to the application; and

(iii) having regard to the public consultation, the financial plan has the general support of the relevant community;

30 (b) ESCOSA may, without further inquiry, be satisfied that it is appropriate to make a determination under that subsection if—

(i) the council is a growth council; and

35 (ii) the council has complied with subsection (13) in relation to the application; and

(iii) the amount of excess general rates sought by the application is, in the opinion of ESCOSA, appropriate having regard to the projected growth rate of the council;

- (c) if satisfied of the matters set out in a preceding paragraph, ESCOSA should determine that the council may fix the rates as proposed in the application for a specified number of financial years (not exceeding 5).

5 (17) If ESCOSA makes a determination under subsection (11), the *Essential Services Commission Act 2002* will be taken to apply in relation to the determination subject to such modifications as are prescribed by regulations made on the recommendation of the Minister after consultation with ESCOSA.

10 (18) ESCOSA must—

(a) prepare guidelines for the purposes of this section setting out the public consultation requirements relating to an application under subsection (11); and

(b) submit the guidelines to the Minister for approval; and

15 (c) on being so approved, publish the guidelines in the Gazette, and the guidelines will be taken to have effect from the time they are so published.

(19) ESCOSA may, with the approval of the Minister and by notice in the Gazette, vary, substitute or revoke the guidelines.

20 (20) In this section—

ESCOSA means the Essential Services Commission established under the *Essential Services Commission Act 2002*;

growth council means a council declared by the Minister by notice in the Gazette to be a growth council.

25 **5—Insertion of section 302C**

After section 302B insert:

302C—Review of certain operations of Act

30 (1) The Minister must cause a review of the operation of this Act (as amended by the *Local Government (Rate Increases) Amendment Act 2016*) to be conducted, and a report provided to the Minister, by 31 December 2021.

(2) The Minister must, within 6 sitting days after receiving a report under subsection (1), cause a copy of the report to be laid before both Houses of Parliament.

35 **Schedule 1—Transitional provision**

1—Transitional provision

40 (1) ESCOSA must, as soon as is reasonably practicable after the commencement day, determine the Local Government Cost Index for the each of the 4 quarters of the financial year that immediately precedes the financial year in which the commencement day occurs.

(2) ESCOSA must, within 7 days of making the determinations under subclause (1), publish the determinations in the Gazette and on a website determined by ESCOSA.

(3) In this clause—

commencement day means the day on which this clause comes into operation;

5 *Local Government Cost Index* has the same meaning as in section 153(6) of the *Local Government Act 1999* (as enacted by the *Local Government (Rate Increases) Amendment Act 2016*).