

**House of Assembly—No 69**

As laid on the table and read a first time, 8 December 2004

South Australia

**Local Government (Reconstitution of Local  
Government Areas) Amendment Bill 2004**

A BILL FOR

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

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Amendment provisions

### Part 2—Amendment of *Local Government Act 1999*

- 3 Amendment of section 4—Interpretation
  - 4 Amendment of section 9—Governor may act by proclamation
  - 5 Amendment of section 10—Matters that may be included in a proclamation
  - 6 Amendment of section 28—Public initiated submissions
  - 7 Amendment of section 29—Reference of proposals to Minister and Governor
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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Local Government (Reconstitution of Local Government Areas) Amendment Act 2004*.

#### 5 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 *Local Government Act 1999*

#### 3—Amendment of section 4—Interpretation

- 10 (1) Section 4(1)—after the definition of *senior executive officer* insert:

*severance proposal* means a proposal to sever any portion of an area of a council from that area and to constitute a new council in relation to that severed area;

- 15 (2) Section 4(1), definition of *structural reform proposal*—after paragraph (d) insert:  
, but does not include a severance proposal

#### 4—Amendment of section 9—Governor may act by proclamation

Section 9—after paragraph (d) insert:

- (da) sever any portion of an area of a council from that area and constitute a new council in relation to that severed area;

#### 20 5—Amendment of section 10—Matters that may be included in a proclamation

- (1) Section 10(1)—after "constitutes a new council" insert:

(including in relation to an area that has been severed from the area of an existing council)

(2) Section 10—after subsection (2) insert:

(2a) If a portion of an area of a council has been severed from that area and a new council constituted in relation to that severed area, the Governor may also, by proclamation—

- 5                   (a) provide for an alteration to the composition of the council whose area is being reduced from a date specified in the proclamation;
- 10                   (b) make any special provision that may be necessary or desirable about the by-laws that apply in that part of the area that is remaining after the severance;
- (c) make provision for the transfer, apportionment, settlement or adjustment of property, assets, income, rights, liabilities or expenses as between the relevant councils.

### **6—Amendment of section 28—Public initiated submissions**

15           (1) Section 28(1), definition of *eligible elector*—after paragraph (c) insert:

(d) in the case of a severance proposal—an elector in respect of a place of residence or rateable property within the area that would be severed under the terms of the proposal.

(2) Section 28(2)—after "a proposal" insert:

20                   (other than a severance proposal)

(3) Section 28—after subsection (3) insert:

(3a) A group of at least 200 eligible electors may submit to a council a submission that the council consider a severance proposal.

25                   (3b) However, a submission cannot be made under subsection (3a) if the council has, within the period of 2 years immediately preceding the making of the submission, been newly constituted (including through an amalgamation).

(4) Section 28(4)—after "subsection (2)" insert:

                     or (3a)

30           (5) Section 28(5)—after "subsection (2)" insert:

                     or (3a)

(6) Section 28(6)—after "subsection (2)" insert:

                     or (3a)

(7) Section 28(10)—delete "a submission under subsection (2)" and substitute:

35                   the relevant submission under subsection (2) or (3a)

(8) Section 28—after subsection (22) insert:

(22a) In addition, a severance proposal under subsection (21) cannot proceed unless or until a poll has been conducted on the matter.

(9) Section 28(23)(b)—after subparagraph (i) insert:

- (ia) in the case of a severance proposal—an elector (or, in the case of a body corporate or a group of persons, a nominee of an elector) for the area of the council affected by the proposal;

5 **7—Amendment of section 29—Reference of proposals to Minister and Governor**

(1) Section 29(1)—after paragraph (c) insert:

- (d) if the report relates to a severance proposal, section 28(23)(i)(ii) does not apply, and the Panel has not recommended that the proposal proceed—at the request of at least 100 persons who submitted the original proposal under section 28(3a)—consult with a group of 5 persons nominated by them about the matter.

(2) Section 29(3)—delete "consults with councils under subsection (1)(c)" and substitute:  
must consult under subsection (1)(c) or (d)

(3) Section 29(4)—after paragraph (b) insert:

(ba) if—

- (i) the Minister has undertaken consultation under subsection (1)(d); and  
(ii) on the bases of that consultation, and after taking into account any report or comments prepared or provided by the Panel in relation to the matter, and any other matter that the Minister thinks fit, the Minister decides that it is appropriate to make a recommendation to the Governor in the circumstances of the particular case,

forward to the Governor a proposal recommended by the Minister for the making of a proclamation under this Chapter; or

(4) Section 29—after subsection (5) insert:

- (5a) If a proclamation providing for the severance of a portion of an area of a council from that council and the constitution of a new council in relation to that severed area is made under subsection (4)(ba), the Governor may, by subsequent proclamation made on the recommendation of the Minister, make provision for any related matter that may be the subject of a separate proclamation under this Chapter.

(5) Section 29(6)—delete "or (5)" and substitute:

, (5) or (5a)