

## **Legislative Council—No 51A**

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 3 May 2005

South Australia

# **Parliamentary Committees (Public Works) Amendment Bill 2004**

A BILL FOR

An Act to amend the *Parliamentary Committees Act 1991*; and to make related amendments to the *South Australian Ports (Disposal of Maritime Assets) Act 2000*.

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### Part 1—Amendment of *South Australian Ports (Disposal of Maritime Assets) Act 2000*

- 1 Amendment of *South Australian Ports (Disposal of Maritime Assets) Act 2000*

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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 *Parliamentary Committees (Public Works) Amendment Act 2004*.

#### 5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

#### 3—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 *Parliamentary Committees Act 1991*

### 4—Amendment of section 3—Interpretation

- (1) Section 3, definition of *construction*—delete the definition and substitute:

5            *computing project* means a project involving the purchase of any components of computing technology to improve services, including (without limitation) computer hardware, software products, software modification, software development, cabling, building work, furnishings, associated labour costs, consultancy fees and equipment;

*construction* means—

- 10            (a) construction of a building or structure; or  
              (b) making repairs or improvements or other physical changes to a building, structure or land,

15            and includes the acquisition and installation of fixtures, plant or equipment when carried out as part of, or in conjunction with, work referred to in paragraph (a) or (b), but does not include ongoing or regular maintenance of a building or structure;

- (2) Section 3—after the definition of *publicly funded body* insert:

*public funds* means money provided by Parliament or a State instrumentality;

- (3) Section 3, definition of *public work*—delete the definition and substitute:

20            *public work* means—

- (a) a construction project for a public purpose in which—  
                  (i) the cost of the project is wholly or partly met from public funds; or  
                  (ii) construction is wholly or partly carried out on land of the Crown or a State instrumentality; or  
25                   (iii) construction is wholly or partly carried out under a contract with the Crown or a State instrumentality; or  
              (b) a computing project for a public purpose in which the cost of the project is wholly or partly met from public funds;

- 30            (4) Section 3, definition of *work*—delete the definition

### 5—Amendment of section 12C—Functions of Committee

Section 12C(a)—delete paragraph (a) and substitute:

- 35            (a) to inquire into, consider and report on any public work referred to it by or under this Act, including—  
                  (i) the stated purpose of the public work;  
                  (ii) the necessity or advisability of carrying out the public work;

- (iii) where a claimed benefit of carrying out the public work is the generation of revenue or savings, the revenue or savings that it might reasonably be expected will be generated;
- (iv) the public benefits that it might reasonably be expected will result from carrying out the public work;
- (v) the recurrent or whole-of-life costs associated with carrying out the public work, including costs arising out of financial arrangements;
- (vi) the estimated net effect on the Consolidated Account or the funds of a statutory authority of carrying out the public work;
- (vii) the efficiency and rate of progress achieved in carrying out the public work, and the reasons for any expenditure beyond the estimated cost of the public work;

- (ab) to inquire into, consider and report on any project referred to it by the Governor by notice in the Gazette;

## **6—Substitution of section 16A**

Section 16A—delete the section and substitute:

### **16A—Notification and reference of certain public works to Public Works Committee**

- (1) The Minister with responsibility for a proposed public work must ensure that the Public Works Committee is notified of the public work, as soon as practicable, if it is reasonably estimated that the future cost of the public work will exceed—
  - (a) \$1 000 000; or
  - (b) if an amount is fixed by proclamation for the purposes of this subsection—that amount.
- (2) Subject to this section, a proposed public work is referred to the Public Works Committee by force of this section if it is reasonably estimated that an amount will be applied from public funds to the future cost of the public work that exceeds—
  - (a) \$5 000 000; or
  - (b) if an amount is fixed by proclamation for the purposes of this subsection—that amount.
- (3) No public funds may be applied towards the cost of the development stage of a public work to which subsection (2) applies unless the Public Works Committee has inquired into the public work and a final report on the public work has been presented to the Committee's appointing House or has been published under section 17(7).

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- (4) Subsection (2) does not apply to a construction project if—
- (a) the Minister has exempted the project from the subsection on the ground that the project is to be wholly or partly funded by, or carried out under a contract with, the Superannuation Funds Management Corporation of South Australia; or
  - (b) the Minister has exempted the project from the subsection on the ground that the project is substantially similar to another project that has been referred to the Public Works Committee by force of this section and the Committee has agreed to the exemption of the project.
- (5a) In determining what is a public work, and in estimating the future cost of a public work, any artificial division of a project so as to make it appear to be a number of separate projects is to be ignored.
- (6) In estimating the future cost of a public work—
- (a) any amounts that will be payable by way of taxes or charges in the carrying out of the public work are to be excluded to the extent that the amounts will be refundable to the State or a State instrumentality; and
  - (b) if an arrangement will apply to the carrying out of the public work under which assets of the State or a State instrumentality will be transferred or made available to a contractor, an amount must be included equivalent to any saving that will be gained by the contractor from the arrangement, measured according to what would be the reasonable market cost of acquiring the assets, or as the case may require, acquiring the use of the assets.
- (7) The Governor may, from time to time, by proclamation, fix an amount for the purposes of subsection (1), provided that the amount does not exceed \$1 000 000 multiplied by the relevant indexation factor.
- (8) The Governor may, from time to time, by proclamation, fix an amount for the purposes of subsection (2), provided that the amount does not exceed \$5 000 000 multiplied by the relevant indexation factor.
- (9) In this section—
- CPI*** means the Consumer Price Index (All Groups) for the City of Adelaide published by the Australian Bureau of Statistics;
- development stage*** of a public work means the stage after completion of processes in the project associated with planning, preparing designs or specifications, acquiring land (if relevant) and tendering or contracting;

*relevant indexation factor* means 1 or the quotient obtained by dividing the CPI last published by the Australian Bureau of Statistics before the date of the proclamation by the CPI for the quarter ending 31 December 2004, whichever is the greater.

5 **Schedule 1—Related amendment and transitional provision**

**Part 1—Amendment of *South Australian Ports (Disposal of Maritime Assets) Act 2000***

**1—Amendment of *South Australian Ports (Disposal of Maritime Assets) Act 2000***

- 10 Section 37(a) and (b)—delete paragraphs (a) and (b) and substitute:  
it is a public work to which section 16A(2) of that Act applies.

**Part 2—Transitional provision**

**2—Transitional provision**

- 15 (1) The amendments made by this Act to the *Parliamentary Committees Act 1991* do not apply to a public work if the development stage of the public work has commenced before the commencement of this Act or if a contract has been made before the commencement of this Act by the Crown or a State instrumentality for the carrying out of work involved in the development stage of the public work.
- 20 (2) Terms used in subclause (1) that are defined in the *Parliamentary Committees Act 1991* have the same respective meanings as in that Act.