

**House of Assembly—No 184**

As laid on the table and read a first time, 13 October 2021

South Australia

**Public Finance and Audit (Government Advertising) Amendment Bill 2021**

A BILL FOR

An Act to amend the *Public Finance and Audit Act 1987*.

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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 *Public Finance and Audit (Government Advertising) Amendment Act 2021*.

#### **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 *Public Finance and Audit Act 1987***

#### **3—Insertion of section 41B**

After section 41A insert:

#### **41B—Approval of Auditor-General required for certain government advertising expenditure**

- (1) The principal officer of a government agency must ensure that the agency does not expend or incur expenditure of more than \$10 000 on government advertising published or caused to be published by the government agency during a relevant election period, unless the government advertising is approved by the Auditor-General or by resolution passed by both Houses of Parliament.
- (2) The Auditor-General may only grant an approval for the purposes of subsection (1) (a *section 41B approval*) if satisfied that the government advertising is necessary for the proper functions of government.

5 (3) For the purposes of subsection (2), government advertising will be taken to be necessary for the proper functions of government if the Auditor-General is satisfied that the primary purpose of the government advertising is to communicate information relating to the following:

- (a) public health and public safety;
- (b) road and public transport works or interruptions;
- (c) emergencies;
- (d) legal or statutory matters;
- 10 (e) electoral material published under the authority of the Electoral Commissioner;
- (f) the engagement or employment of persons in the service of the government;
- (g) attendance at an event;
- 15 (h) tourism;
- (i) auctions and other sales of property, goods and services;
- (j) courses at tertiary educational institutions.

**Note—**

20 Government advertising for the purposes of generally promoting government programs or achievements, government spending or the future delivery of infrastructure projects or initiatives is not to be regarded as necessary for the proper functions of government.

25 (4) The Auditor-General must, within 7 days of the end of each month that falls in a relevant election period, publish a report on the details of each section 41B approval granted during the month to which the report relates.

(5) Notice of a motion for a resolution under subsection (1) must be given at least 3 sitting days before the motion is passed.

30 (6) In this section—

**government advertising** means advertising by a government agency (whether comprised of a single advertisement or a series of advertisements) and includes a promotional campaign;

**government agency** means—

- 35 (a) a Minister; or
- (b) an administrative unit of the Public Service; or
- (c) an agency or instrumentality of the Crown; or
- (d) any other person or body declared under the *Public Sector Act 2009* to be a public sector agency;

*principal officer*, in relation to a government agency, means—

- (a) if the agency consists of a single person (including a corporation sole but not any other body corporate)—that person;
- (b) if the agency consists of an unincorporated board or committee—the presiding officer;
- (c) in any other case—the chief executive officer of the agency or a person determined by the Auditor-General to be the principal officer of the agency;

*relevant election period* means the period commencing on 1 July in the year immediately before a general election of members of the House of Assembly is held in accordance with section 28(1) of the *Constitution Act 1934* and ending on the day of that general election (and includes, if this section comes into operation during a relevant election period, the remainder of that relevant election period).

(7) For the purposes of this section, a reference to advertising published or caused to be published by a government agency includes a reference to advertising that the government agency pays for or arranges the placement of.

(8) The Auditor-General may exercise the Auditor-General's powers under section 34 of this Act for the purposes of determining whether or not to grant a section 41B approval and section 34 applies as if—

- (a) a reference to the conduct of an audit or review, or the making of an examination; and
- (b) a reference to an audit, review or examination,

were a reference to the determination whether or not to grant a section 41B approval.

#### **4—Transitional provision**

(1) For the avoidance of doubt, section 41B of the *Public Finance and Audit Act 1987* (as inserted by section 3 of this Act) applies (on and after the commencement of section 3) for the remainder of the relevant election period that commenced on 1 July 2021 to government advertising published or caused to be published on or after that commencement, including government advertising under a contract or arrangement entered into before the commencement of section 3.

(2) If government advertising under a contract or arrangement of a kind referred to in subsection (1) is not approved under section 41B of the *Public Finance and Audit Act 1987*, the government agency remains liable for any amounts payable under the contract (as if the government advertising were published in accordance with the contract).