**IRRIGATION (DISSOLUTION OF TRUSTS) AMENDMENT BILL 1998**

**Legislative Assembly, 26 March 1998, pages 835-6**

Second reading

**The Hon. M.H. ARMITAGE (Minister for Government Enterprises)** obtained leave and introduced a Bill for an Act to amend the Irrigation Act 1994. Read a first time.

The Hon. M.H. ARMITAGE: I move: That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted.

Shortly after the conversion of the eight Government Irrigation Trusts under the Irrigation Act to effect self management, the new Trusts sought exemption from sales tax from the Australian Taxation Office. Existing Trusts have long enjoyed exemption from sales tax. The request from the new Trusts was examined by the Australian Taxation Office in the light of the new (1994) Irrigation Act. Exemption was granted, but on an interim basis only, subject to amending the Irrigation Act in regard to the distribution of property, rights and liabilities of a Trust upon its dissolution.

To gain sales tax exemption Irrigation Trusts must be public authorities. The Australian Taxation Office takes the view that an essential feature of ‘public authorities’ is that when they are dissolved assets, rights and liabilities pass to a similar body, or to the Crown. The Irrigation Act provides that assets and rights be distributed to the members of the Trust on dissolution. This is not acceptable to the Australian Taxation Office.

The proposed amendment provides Trusts with two options. The first option is the default (do nothing) option that provides that on dissolution, assets, rights and liabilities will pass to another Trust. If, however, there is no other appropriate Trust the assets, rights and liabilities will pass to the Crown. The second option provides that on dissolution, assets, etc., will be distributed to members of the Trust. This is the current provision. It is important to retain this option for Trusts that are prepared to sacrifice exemption from sales tax in order to have assets, etc., divided amongst members on a dissolution. A Trust that wishes to choose this option will have to declare that choice by notice to the Minister. Once a declaration is made, it cannot be revoked. Choosing this option will mean that the Australian Taxation Office will not grant a sales tax exemption.

The amendment will put South Australian Irrigation Trusts on the same footing as similar bodies interstate.

I commend this Bill to the House.

Explanation of Clauses The provisions of the Bill are as follows:

*Clause 1: Short Title*

*Clause 2: Commencement Clauses 1 and 2 are formal.*

*Clause 3: Amendment of s. 13—Abolition of private irrigation district on landowner’s application*

*Clause 4: Amendment of s. 14—Abolition of district on Minister’s initiative*

Clauses 3 and 4 make changes to sections 13 and 14 that are consequential on the enactment of new section 14A.

*Clause 5: Insertion of s. 14A Clause 5 inserts new section 14A.*

This section provides in subsections (1) and (2) that on dissolution of a private irrigation trust the assets and liabilities of the trust will vest in another private irrigation trust or, alternatively, in the Crown. However, subsections (3) and (4) allow individual trusts to elect to have the assets and liabilities distributed amongst the members of the trust on dissolution. The consequence of taking up this option will be that the trust will not be eligible for sales tax exemption.

*Clause 6: Statute law revision amendments*

Clause 6 makes statute law revision amendments by way of a schedule to the Bill. Most of these amendments are the replacement of the old scheme of divisional penalties with the new penalty structure. Section 79 is amended to ensure that the time limit for taking proceedings for an expiable offence is consistent with the provisions of section 52 of the Summary Procedure Act 1921.

Ms HURLEY secured the adjournment of the debate.