**LOCAL GOVERNMENT ACT AMENDMENT BILL 1986**

**Legislative Council, 26 February 1986, pages 570-1**

Second reading

**The Hon. BARBARA WIESE (Minister of Local Government)** obtained leave and introduced a Bill for an Act to amend the Local Government Act 1934. Read a first time.

The Hon. BARBARA WIESE: I move: That this Bill be now read a second time. The Local Government Act Amendment Bill makes a number of amendments to the Local Government Act designed to provide greater flexibility for councils to promote schemes for the benefit of the community, improve the administration of the Act and repeal obsolete and archaic provisions. For some time there has been concern in local government that the existing provisions are not sufficiently flexible to enable councils to implement a wide range of schemes to provide services or facilities which, although not seen as traditional local government functions, will improve the quality of life for the community and/or promote economic development. Proposals coming within this class include the provision of remote area television receivers and cable networks in country areas, and schemes developed by traders to levy separate rates to be applied to promoting the area or portion of an area, similar to the rate levied on Rundle Mall traders to promote the mall. The Bill provides for a council after consultation with its electors to be able to submit for the approval of the Minister a scheme for the carrying out of any undertaking for the benefit of the area, and empowers the council to give effect to the scheme if authorised by the Minister.

The Bill contains a provision extending the maximum terms of lease of the Adelaide Oval from 25 to 50 years. The extension of the term of lease will enable the Adelaide City Council to extend the S.A. Cricket Association lease of the oval, providing the additional security of tenure needed by the association to finance the much needed upgrading of oval facilities.

The Bill contains a number of provisions designed to improve the administration of the Act, for example, by providing that councils may by resolution temporarily suspend the passage of traffic in streets for special community events such as carnivals, Jubilee 150 and 1988 bicentennial events.

As part of the rewriting of the Local Government Act, the opportunity is being taken to repeal a large number of archaic or obsolete provisions relating to such activities as ferries (now the responsibility of the Minister of Transport) and hide and skin markets, together with provisions inserted in the Act with expiry dates now passed or for special purposes which are no longer required. I seek leave to have the explanation of the clauses inserted in Hansard without my reading it. Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 inserts a new section 34a in the Act to provide that the association may carry on the business of providing workers compensation insurance to councils.

Clause 4 amends section 47 to enable the Governor to provide, in a proclamation made under division VI of part II, for the adjustment of the term of office of a member of a council.

Clause 5 amends section 48 by providing that when the office of a member of a council becomes vacant the chief executive officer is to notify other members of the council and the Minister.

Clause 6 amends section 49 of the Act to provide that an annual allowance payable to a mayor or chairman may be paid in monthly instalments.

Clause 7 amends section 54 so that a member cannot be precluded from voting on a matter affecting a non-profit organisation in which the member or a person closely associated with the member is a director or member.

Clause 8 amends section 63 of the Act to provide that each elector present at a meeting of electors is entitled to vote in the elector’s own capacity and where the elector is a nominated agent in the elector’s capacity as nominated agent.

Clause 9 amends section 66 of the Act to provide that a person appointed to act in the office of chief executive officer for more than three months must hold a certificate of registration issued by the Local Government Qualifications Committee or have the appointment approved by the Minister.

Clause 10 amends the Act by inserting a new section 68a which provides for the delegation by the Local Government Qualifications Committee of any of its powers or functions to any member of the committee or any advisory committee or a member of an advisory committee.

Clause 11 amends section 101 of the Act to provide that a candidate in an election is not eligible for appointment as a scrutineer in the election.

Clause 12 amends section 150 by removing the requirement that the council and the Minister be notified of a member’s failure to submit a return.

Clause 13 repeals section 286 of the Act. This section deals with the payment of council moneys.

Clause 14 amends section 292 by removing the entitlement of an elector to inspect accounts. This is now provided for in section 64 of the Act.

Clause 15 amends section 293 by removing the reference to ‘the Auditor-General’ as the Auditor-General no longer has the power to inspect a council’s accounts unless appointed by the council.

Clause 16 amends section 305 to provide that on the vesting in the council of any street, road or land to be declared a public street, road or land all private rights shall be discharged.

Clause 17 repeals Division XIII of Part XVII dealing with the right to use streets, footways, etc., formed and drained, etc., at the expense of the landowners.

Clause 18 amends section 358 of the Act by providing that the erection of safety islands, etc., by a council is subject to the provisions of this Act or any other Act.

Clause 19 inserts a new section 359 in the Act providing that a council may by resolution exclude vehicles generally or vehicles of a particular class from a particular street, road or public place. Such resolution is not to take effect until it is published in the Gazette or a newspaper circulating in the area.

Clause 20 repeals section 365b and substitutes a new section enabling a council to authorise the erecting or placing of a stand or shelter for milk containers, a stand, platform or ramp for loading or unloading goods or animals, a rubbish container or a letter box on a public street or road within the council area. The section also provides that the council may revoke an authority given and cause the structure to be removed. A penalty of $1 000 applies to a breach of the section.

Clause 21 amends section 377 of the principal Act to enable a council to enter into a contract with a local government body established under the law of another State or Territory of the Commonwealth.

Clause 22 inserts a new Part XVIIIA in the Act which provides that a council may propose a scheme to carry out any activity (not otherwise authorised by the Act) for the benefit of the council area. The proposal setting out certain information is, prior to submission to the Minister, publicised to enable any interested member of the public to make submissions. One month after the date of publication the council shall hold a meeting to hear any submissions and to resolve whether to carry the scheme into effect or not.

If the council decides to adopt an alternative scheme the council shall cause a fresh public notice to be given and hold a further meeting unless the council is satisfied that those affected by the alternative scheme have had an opportunity to consider it and make any submissions or that the alternative scheme differs from the original in minor respects only. Upon the completion of the hearing at the council meeting a copy of the submissions, proposal and council’s resolution shall be forwarded to the Minister who has the opportunity to require additional information or make any amendments considered necessary. If the Minister consents to the scheme a copy shall be published in the Gazette and the council may give effect to the scheme from the date it is so published.

Clause 23 repeals sections 444, 445, 446, 447 and 449b of the Act which protected the rights of debenture holders under Acts that are now repealed.

Clause 24 amends section 475a of the Act by striking out an outdated reference to the Road Traffic Board of South Australia.

Clause 25 amends section 475i of the Act to include bailee in the definition of owner.

Clause 26 repeals section 481 of the Act which empowered the City of Glenelg to lease certain parts of the foreshore for 50 years from 6 December 1923.

Clause 27 repeals sections 521 to 527 (inclusive) of the Act which provide for the installation of sewerage mains which are now dealt with under the Sewerage Act 1929.

Clause 28 repeals Part XXIX of the Act which provided for the operation of ferry services which are now provided for by the Highways Department.

Clause 29 amends section 628 of the Act by striking out the outdated reference to the word ‘surveyor’ and substituting the word ‘council’.

Clause 30 amends section 667 of the Act by striking out by-law making powers with respect to the following:

• sewerage and drainage;

• regulating, controlling or prohibiting the passing along streets, roads and public places of vehicles;

• ferries.

Clause 31 amends section 668 by removing the requirements for the making of a by-law under that head of power. This amendment is consequential upon the amendment to section 667 (1) III.

Clause 32 amends section 679 by striking out the subsection dealing with a resolution relating to the temporary suspension or prohibition of traffic or closure of streets or roads which is now provided for by the amendment proposed in clause 19. Subsection (3) of section 679 is amended to provide that a resolution shall not take effect before it has been published in the Gazette.

Clause 33 amends section 682 by providing that a resolution disallowing a model by-law shall be published in the Gazette.

Clause 34 amends section 691 by providing the Governor with power to make regulations prescribing the manner in which money received by councils shall be dealt with and the manner in which payments by councils are to be made.

Clause 35 amends section 748d of the Act by providing that the amount of an expiation fee is to be prescribed and that an authorised person is a person appointed under Division VI of Part VI of the Act.

Clause 36 repeals section 752 which provides that a council member absent for more than three consecutive meetings without cause, shall be fined $200. This situation is now covered by section 48 (1) (e) of the Act.

Clause 37 amends section 794a to provide that an authorised person who believes on reasonable grounds that an offence against this Act or a prescribed Act has been committed may give that person a notice permitting the offence to be expiated by payment of a fee within 21 days from the date of receipt of the notice.

Clause 38 amends section 855 to extend the form for which the Adelaide oval may be leased from 25 years to 50 years.

Clause 39 repeals sections 877 and 883 of the Act which are now obsolete.

Clause 40 repeals sections 886a and 886b of the Act which are now obsolete.

Clause 41 repeals Part XLVII of the Act which is now obsolete.

Clause 42 repeals Part XLVIII of the Act which is now obsolete.

Clause 43 repeals the seventeenth schedule to the Act which is now obsolete.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.