

LOCAL AUTHORITIES (MEMBERS' INTERESTS) AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Local Authorities (Members' Interests) Act 1968.

Clause 1 relates to the Short Title.

Clause 2: Section 3 (1) of the principal Act provides that no person is capable of being elected or appointed to be or of being a member of a local authority or of any committee thereof, if he is concerned or interested in any contract made by the local authority if the payment in respect of the contract exceeds \$1,000 in the case of any contract or \$2,000 altogether in any financial year in respect of all contracts in which that person is concerned or interested.

This clause increases those amounts, to \$2,000 in the case of any one contract and to \$4,000 in the case of all contracts in a financial year.

Clause 3 substitutes new subsections (2) and (2A) for section 3 (2) of the principal Act, which defines the circumstances in which a member of a local authority or of a committee thereof will be deemed to be concerned or interested in a contract made by a local authority with an incorporated company.

The changes in the new subsection (2) are—

- (a) *Paragraph (b)* replaces the former paragraph (b), and makes it clear that a member of a local authority is interested in a contract made with an incorporated company of which he or his spouse is a member, if either he or his spouse is also the managing director or the general manager or a branch manager. Previously, it appeared that in order to be interested in such a contract, the member must be both a member of the company and the holder of one of those offices in the company or his spouse must be both a member of the company and the holder of one of those offices.
- (b) *Paragraph (c)* replaces the former paragraph (c), relating to cases where a contract is made by the local authority with a company controlled by another company in which the member or his spouse has an interest. The same changes are made as in the case of the former paragraph (b) above.

The new subsection (2A) provides that contracts with the local authority (except those made with an incorporated company, for which provision is made in subsection (2)) in which a member's spouse is interested must also be taken into account in determining whether or not a member is disqualified under subsection (1) (referred to in the note on *clause 2*). A member will thus be disqualified if he or his spouse or both are concerned in any one contract exceeding \$2,000, or in a number of contracts in any financial year exceeding in the aggregate \$4,000.

Clause 4: The effect of this clause is to exempt from disqualification a member of a county borough council or county town committee who is interested or whose spouse is interested in a contract entered into by the county council where the following conditions are all complied with:

- (a) The contract, apart from preliminary work, is to be performed wholly outside the boundaries of the county borough or county town; and
- (b) The county borough council or county town committee has not given consideration to and reported on the contract to the county council; and
- (c) Neither the member concerned nor his spouse is also a member of the county council entering into the contract.

Clause 5 substitutes new subsections (2), (2A), and (2B) for section 6 (2) of the principal Act, which defines the circumstances in which a member of a local authority or of a committee thereof is deemed to have a pecuniary interest in a matter before the local authority or committee for the purposes of subsection (1), which prohibits the member from discussing or voting on such a matter.

The new subsections make the following changes—

- (a) *Subsection (2)* makes changes corresponding to those made in the new section 3 (2) (referred to in the note on *clause 3*) where the member or his spouse has an interest in an incorporated company which has a pecuniary interest in the matter before the local authority or committee.
- (b) *Subsection (2A)* prohibits a member from discussing or voting on a matter in which his spouse has a pecuniary interest (otherwise than as a member of a company) as the owner or one of the owners of an estate or interest in any real or personal property or of any business or as a party to any contract or proposed contract with the local authority.
- (c) *Subsection (2B)* provides that the new subsection (2) and subsection (2A) do not apply to the spouse of a member if they are living apart. Such a provision now applies to the present subsection (2), and is now applied to both the new subsection (2) and subsection (2A).

Clause 6: Section 6 (6) of the principal Act allows members of certain university bodies to discuss, but not vote on, matters affecting their salary or allowances. This clause extends that provision to members of Fire Boards, Fire Committees, and Fire Brigade Committees.

Hon. Mr Seath

**LOCAL AUTHORITIES (MEMBERS' INTERESTS)
AMENDMENT**

ANALYSIS

Title	
1. Short Title	5. Member of local authority or committee not to discuss or vote on question in which he has pecuniary interest
2. Amount of disqualifying contract	6. Discussing or voting on question affecting member's salary or allowances
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A BILL INTITULED

**An Act to amend the Local Authorities (Members' Interests)
Act 1968**

BE IT ENACTED by the General Assembly of New Zealand
5 in Parliament assembled, and by the authority of the same,
as follows:

1. Short Title—This Act may be cited as the Local Authorities (Members' Interests) Amendment Act 1971, and shall be read together with and deemed part of the Local
10 Authorities (Members' Interests) Act 1968* (hereinafter referred to as the principal Act).

*1968, No. 147
Amendment: 1969, No. 90

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2. Amount of disqualifying contract—Section 3 of the principal Act is hereby amended—

- (a) By omitting from subsection (1) the words “one thousand dollars”, and substituting the expression “\$2,000”:
- (b) By omitting from subsection (1) the words “two thousand dollars”, and substituting the expression “\$4,000”.

3. When member concerned or interested in contract—Section 3 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsections:

“(2) For the purposes of subsection (1) of this section, a member of a local authority or of a committee thereof shall be deemed to be concerned or interested in a contract made by a local authority with an incorporated company, if—

“(a) The member or his spouse singly or between them own, whether directly or through a nominee, 10 percent or more of the issued capital of the company or of any other company controlling that company; or

“(b) The member or his spouse is a member of the company, and either of them is the managing director or the general manager or a branch manager (by whatever names they are called) of the company; or

“(c) The member or his spouse is a member of a company controlling the company with which the contract is made and either of them is the managing director or the general manager or a branch manager (by whatever names they are called) of that controlling company:

“Provided that nothing in this subsection shall apply with respect to the spouse of any member where, at the time when the contract was entered into,—

- “(i) The member and his spouse were living apart; or
- “(ii) In any case to which paragraph (a) of this subsection applies, the member did not know and had no reasonable opportunity of knowing that his spouse owned any part of the issued capital of the company or of any company controlling that company; or

“(iii) In any case to which paragraph (b) or paragraph (c) of this subsection applies, the member did not know and had no reasonable opportunity of knowing that his spouse was a member of the company or of the controlling company, as the case may be, or held any of the offices specified in either of those paragraphs.

“(2A) For the purposes of subsection (1) of this section, a member of a local authority or of a committee thereof shall be deemed to be concerned or interested in a contract made by the local authority in which his spouse is concerned or interested (not being a contract made with an incorporated company):

“Provided that nothing in this subsection shall apply with respect to the spouse of any member where, at the time when the contract was entered into,—

“(a) The member and his spouse were living apart; or

“(b) The member did not know and had no reasonable opportunity of knowing that his spouse was concerned or interested in the contract.”

4. Member not disqualified in certain cases—Section 3 of the principal Act is hereby further amended by adding to subsection (3) the following paragraph:

“(j) No person who is a member of a county borough council or a county town committee shall be disqualified under this section by virtue of his being or his spouse being concerned or interested in any contract made by a county council, where—

“(i) The contract, except for any preliminary work associated with it, is to be performed wholly outside the area under the jurisdiction of the county borough council or the county town committee of which that person is a member; and

“(ii) The contract is one in which the county borough council or the county town committee, as the case may be, has no jurisdiction or control or which has not been reported on to the county council by the county borough council or the county town committee, as the case may be; and

“(iii) Neither that person nor his spouse is also a member of the county council which made the contract:

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“Provided that nothing in subparagraph (iii) of this paragraph shall apply with respect to the spouse of the member where, at the time when the contract was entered into, the member and his spouse were living apart.”

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5. Member of local authority or committee not to discuss or vote on question in which he has pecuniary interest— Section 6 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) For the purposes of subsection (1) of this section, where an incorporated company has, directly or indirectly, a pecuniary interest in a matter before the governing body of a local authority or before a committee thereof, a member of the local authority or, as the case may be, of the committee shall be deemed to have a pecuniary interest in the matter, if—

“(a) The member or his spouse singly or between them own, whether directly or through a nominee, 10 percent or more of the issued capital of the company or of any other company controlling that company; or

“(b) The member or his spouse is a member of the company, and either of them is the managing director or the general manager or a branch manager (by whatever names they are called) of the company; or

“(c) The member or his spouse is a member of a company controlling the company having a pecuniary interest in the matter before the governing body of the local authority or, as the case may be, before the committee, and either the member or his spouse is the managing director or the general manager or a branch manager (by whatever names they are called) of that controlling company.

“(2A) Where the spouse of a member of a local authority or of any committee thereof has, directly or indirectly, a pecuniary interest in a matter before the governing body of a local authority or before a committee thereof as the owner or one of the owners (otherwise than as a member of an incorporated company) of an estate or interest in any real or personal property or of any business or as a party to any contract or proposed contract with the local authority, the

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member shall, for the purposes of subsection (1) of this section, be deemed to have a pecuniary interest in the matter.

“(2B) Nothing in subsection (2) or subsection (2A) of this section shall apply with respect to the spouse of any member
5 where, at the time when the member took part in the discussion of or, as the case may be, voted on the matter before the local authority or committee, the member and his spouse were living apart.”

**6. Discussing or voting on question affecting member's
10 salary or allowances**—Section 6 of the principal Act is hereby further amended by inserting in subsection (6), after paragraph (h), the following paragraphs:

“(i) Any Fire Board:

“(j) Any Fire Committee:

“(k) Any Fire Brigade Committee—”.