

LOCAL AUTHORITIES LOANS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Local Authorities Loans Act 1956.

Clause 2 requires formal notification to be given to the Local Authorities Loans Board that the special order to raise a loan has been duly made in any case where section 34 (1) of the principal Act applies but the consent of the ratepayers has not been required by the Board, a poll has not been demanded by 5 per cent of the ratepayers, and the local authority has not resolved to take a poll.

Section 13 of the principal Act provides that the result of the submission of a loan proposal to the ratepayers must be given to the Local Authorities Loans Board by the Mayor or Chairman of the local authority by a notification in a form prescribed by regulations. Where a loan is to be raised with the written consent of the ratepayers under section 43, a statutory declaration that the required consent has been obtained is required to be sent to the Board. This clause provides for a uniform procedure in both cases, and requires a form of notification in the case of a loan raised under section 43.

Clause 3: The effect of this clause is that the consent of the Local Authorities Loans Board is not required where the local authority enters into an agreement with the Minister of Works under section 33 of the Finance Act 1938 for the payment by instalments of the local authority's contribution towards the cost of certain Government works, or an agreement with the Minister of Railways under section 62 of the Government Railways Act 1949 for the payment by instalments of the local authority's contribution towards the cost of a subway or bridge. For the purposes of the principal Act, an agreement to pay instalments over a number of years amounts to borrowing.

Clause 4: Section 27 of the principal Act requires a special roll to be prepared where a loan is to be raised for the benefit of part of a district that is not a legal subdivision. In the case of a Catchment Board which prepares a classification list, the list is deemed to be a special roll. Under section 101 (3) of the Soil Conservation and Rivers Control Act 1941 a Catchment Board is not required to prepare a classification list in any case where the ratepayers in a special rating area do not exceed 100 in number and all consent to the raising of the loan and the making of a special rate.

This clause provides that in such a case the Catchment Board is not required to prepare a special roll.

Clause 5: Paragraph (a) makes a minor drafting amendment to section 34 (1) of the principal Act, which provides that a special loan may be raised by special order of the local authority. The loan is actually raised by the issue of debentures or stock pursuant to a special order, and this paragraph makes an appropriate change in wording.

Section 34 (2) of the principal Act provides that notice of a resolution to raise a special loan must include a statement that 5 per cent of the rate-payers may demand a poll, except where a poll has already been required by the Local Authorities Loans Board or the local authority has itself resolved to take a poll or some other Act requires a poll. *Paragraph (b)* of this clause makes it clear that such a statement is not required in any case where any provision of the principal Act or any other Act provides that a loan may be raised without a poll.

Clause 6: Under previous legislation the Board's sanction to raise a special loan lapsed if no part of the loan was raised within five years. This period was reduced to three years by section 40 (1) of the principal Act. The purpose of this clause is to make it clear that the five-year period still applies in the case of loans sanctioned before the commencement of the principal Act.

Clause 7: Section 47 (1) of the principal Act provides that, subject to special provisions in the case of Harbour Boards, a local authority which has been authorised by Order in Council to raise a special loan may make a special rate as security for the loan. This clause makes it clear that this provision does not confer rating powers on any local authority that is not already a rating authority under some other Act.

Clause 8 amends an incorrect reference in section 64 (1) of the principal Act.

Clause 9: Section 65 (1) of the principal Act provides that, pending the raising of any special loan by the issue of debentures, the local authority may, with the prior consent of the Minister of Finance given subject to such conditions as he thinks fit, borrow money by the hypothecation of debentures. The purpose of this clause is to make it clear that this power is not subject to the provisions of section 15 of the principal Act providing that money may not be borrowed save in accordance with conditions determined by the Local Authorities Loans Board. The clause also makes it clear that the power of hypothecation may also be exercised where the special loan is to be raised by the issue of stock.

Clause 10 provides that, where the National Provident Fund Board is appointed as the Commissioner of a sinking fund, it must invest all money belonging to the sinking fund in the National Provident Fund, unless some other mode of investment is specially authorised by Order in Council.

Hon. Mr Nordmeyer

LOCAL AUTHORITIES LOANS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Local Authorities Loans Act 1956

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

1. Short Title—This Act may be cited as the Local Authorities Loans Amendment Act 1959, and shall be read together with and deemed part of the Local Authorities Loans Act 1956 (hereinafter referred to as the principal Act).

10 **2. Notification of result of poll or consent of ratepayers**—
(1) Section thirteen of the principal Act is hereby amended by inserting, after subsection two, the following subsection:

“(2A) Except where by any enactment the loan may be raised without the prior consent of the ratepayers, the Board, in any case where the consent of the ratepayers is not required or demanded or resolved to be obtained in accordance with subsection one of section thirty-four of this Act, on receipt of a notification in the form prescribed by regulations signed by the Chairman of the local authority and stating that the special order to raise the loan has been duly made, shall forthwith notify the Minister thereof, who shall in due course submit a recommendation to the Governor-General in Council for his consent to the raising of the loan.”

(2) Section thirteen of the principal Act is hereby further amended by omitting from subsection three the words “statutory declaration”, and substituting the word “notification”.

(3) Section thirteen of the principal Act is hereby further amended by repealing subsection four, and substituting the following subsection:

“(4) If the Chairman knowingly inserts, or causes or allows to be inserted,—

“(a) In any notification under subsection two of this section, any false statement as to the number of votes recorded for and against the proposal to which the notification relates; or

“(b) In any notification under subsection two A of this section, any false statement as to any matter specified in that subsection; or

“(c) In any notification under subsection three of this section, any false statement as to the number of the ratepayers of the district or of the part of the district affected, or as to the proportion of those ratepayers who have consented to the raising of the loan,—

he is liable on summary conviction before a Magistrate to a fine not exceeding five hundred pounds.”

3. Consent of Local Authorities Loans Board not required in certain cases—Section eighteen of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraphs:

“(cc) Money to be paid by a local authority as provided in subsection four of section thirty-three of the Finance Act 1938:

“(ccc) Money to be paid by a local authority as provided in subsection three of section sixty-two of the Government Railways Act 1949:”.

4. Loan for benefit of part of district—Section twenty-seven of the principal Act is hereby amended by adding to subsection two the following proviso:

5 “Provided that, in the case of a special loan raised by a Catchment Board, nothing in this subsection shall apply where the Board is authorised, pursuant to subsection three of section one hundred and one of the Soil Conservation and Rivers Control Act 1941, to levy a special rate for the purposes of the loan in accordance with the consent of the ratepayers
10 instead of in accordance with a graduated scale based on a classification of lands made for the purposes of the rate.”

5. Raising loan by special order—Section thirty-four of the principal Act is hereby amended as follows:

15 (a) By omitting from subsection one the words “by special order”, and substituting the words “pursuant to a special order”:

20 (b) By omitting from subsection two the words “Except where the consent of the ratepayers is to be obtained pursuant to paragraph (a) or paragraph (c) or paragraph (d) of subsection one”, and substituting the words “Except where by any provision of this Act or by any other enactment the consent of the ratepayers is not required to be obtained, and except
25 where the consent of the ratepayers is to be obtained pursuant to paragraph (a) or paragraph (c) or paragraph (d) of the proviso to subsection one”.

6. Lapse of authority to raise loan—Section forty of the principal Act is hereby amended as from its commencement by inserting, after subsection two, the following subsection:

30 “(2A) The provisions of subsection one of this section shall apply with respect to every sanction to the raising of a special loan given by the Local Government Loans Board before the commencement of this Act as if that sanction had been given by the Local Authorities Loans Board, and as if for the words
35 ‘three years’ in that subsection there were substituted the words ‘five years’.”

7. Special rate—Section forty-seven of the principal Act is hereby amended by inserting in subsection one, after the words “raise a special loan”, the words “and the local authority is
40 empowered by any other enactment to make and levy any rate”.

8. Replacing lost or destroyed or mutilated debentures—Section sixty-four of the principal Act is hereby amended by omitting from subsection one the words “subsection three”, and substituting the words “subsection two”.

9. Hypothecation of debentures—Section sixty-five of the principal Act is hereby amended as follows: 5

- (a) By inserting in subsection one, before the words “Pending the raising of any special loan”, the words “Notwithstanding anything in section fifteen of this Act”:
- (b) By omitting from subsection one the words “by the issue of debentures”. 10

10. Investment of money in sinking fund—Section eighty-six of the principal Act is hereby amended by adding to subsection two the following additional proviso:

“Provided further that, where the National Provident Fund Board is appointed as the Commissioner of a sinking fund, the Board shall invest all money in the sinking fund, together with all interest and profits accruing therefrom, in the National Provident Fund, or in such other manner as may be specially authorised in that behalf by the Governor-General in Council.” 15 20