

House of Representatives

Supplementary Order Paper

Tuesday, 15 August 2023

Water Services Entities Amendment Bill

Proposed amendment

Simon Court, in Committee, to move the following amendment:

Clause 6A

After *clause 6* (page 10, after line 13) insert:

11A Territorial authority owner may leave Water Services Entity

- (1) Despite anything to the contrary of this Act, a territorial authority owner of a water services entity may leave a water services entity at any time after it is established under section 11 if —
 - (a) a poll of electors of the territorial authority owner is held, in accordance with the process outlined in **subclause (2)**, on the question of whether a territorial authority owner should leave a water services entity; and
 - (b) more than 50% of votes cast in the poll are in favour of the territorial authority owner leaving.
- (2) For the purposes of **subclause (1)**, a poll of electors of a territorial authority owner must be conducted as follows —
 - (a) a specified number of electors of a territorial authority may demand that a poll be held on the question of whether that territorial authority should leave the water services entity that it is a territorial authority owner of; and
 - (b) upon receipt of a valid demand under **paragraph (a)**, the territorial authority must arrange for a poll to be held; and
 - (c) the poll must be held under the Local Electoral Act 2001 and the provisions of that Act apply, with any necessary modifications to the conduct of that poll; and

- (d) the Local Government Commission must ensure that 1 electoral officer is designated to conduct the poll and to declare the official result of the poll.
- (3) If the official result of the poll is that more than 50% of votes cast in the poll are in favour of the territorial authority owner leaving the water services entity, the territorial authority owner must notify the Minister of that result no later than 20 business days after the result has been declared.
- (4) After receiving a valid notice under **subsection (3)**, the Minister must recommend that an Order in Council be made to give effect to the result of the poll.
- (5) An Order in Council made under this section —
 - (a) must specify a date on which it comes into effect:
 - (b) must amend Schedule 2 to reflect the change in territorial authority owners for the affected water services entity:
 - (c) must provide for all the assets, liabilities and other matters of the territorial authority owner vested in the water services entity to be returned to the territorial authority owner:
 - (d) may suspend any statutory requirement that an affected water services entity would otherwise be subject to if the territorial authority owner leaving the entity would make compliance with the statutory requirement unnecessary or inappropriate.
- (6) In this clause —
assets, liabilities and other matters, in respect of a territorial authority owner, include, without limitation:
 - (a) assets (for example, infrastructure assets):
 - (b) contracts, engagements, or information:
 - (c) benefits, entitlements, interests, rights, powers, or privileges (including, without limitation, moneys payable and, in relation to any moneys payable, proceedings, statutory approvals or consents, easements, encumbrances, leases, or licences (including without limitation, access licences)):
 - (d) other property (which, in this paragraph means —
 - (i) any other thing that is capable of being owned, whether it is real or personal property, and whether it is tangible or intangible property; or
 - (ii) any estate or interest in any thing specified in **sub-paragraph (i)**):
 - (e) eligibility for benefits, entitlements, interests, rights, powers, or privileges:

- (f) duties or liabilities (including, without limitation, in relation to any moneys payable, proceedings, or statutory approvals or consents):
- (g) ineligibility for benefits, entitlements, interests, rights, powers or privileges.

specified number of electors, in relation to a territorial authority, means a number of electors equal to or greater than 5% of the number of electors enrolled as eligible to vote at the previous triennial general election of the territorial authority.

- (7) An order made under **subclause (4)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Explanatory note

This Supplementary Order Paper amends the Bill to allow a territorial authority owner to exit a water service entity. Should a territorial authority owner leave a water services entity, all assets vested in the water services entity that were previously vested in the territorial authority owner prior to the establishment of the water services entity will leave with the territorial authority owner and be returned to them. It is a fundamental principle of democracy that the owners of a public asset have ultimate decision-making power of that asset. This would include being able to leave a water services entity after a vote by the territorial authority owner and a poll of the electors.