

House of Representatives
Supplementary Order Paper

Tuesday, 26 March 2013

Local Electoral Amendment Bill (No 2)

Proposed amendments

Hon Chris Tremain, in Committee, to move the following amendments:

Clause 27: new section 103A

In *clause 27, new section 103A*, after the definition of **anonymous** (after line 6 on page 17), insert:

“**contribution** means any thing (being money or the equivalent of money or goods or services or a combination of those things) that makes up a donation or is included in a donation or has been used to wholly or partly fund a donation, and that—

“(a) was given—

“(i) to the donor; or

“(ii) to a person who was required or expected to pass on all or any of its amount or value to the donor, whether directly or indirectly (for example, through 1 or more intermediaries, trustees, or nominees); and

“(b) would have been a donation if it had been given directly to the candidate; and

“(c) was given in the knowledge or expectation (whether by reference to a trust, an agreement, or an understanding) that it would be wholly or partly applied to make up, or to be included in, or to fund, a donation

“**contributor** means a person who makes a contribution and who immediately before making the contribution—

“(a) beneficially holds any money, or the equivalent of money, or any goods that make up the contribution or are included in the contribution; or

- “(b) provides any services that make up the contribution or are included in the contribution or pays for those services out of money that the person beneficially holds
- “**donation funded from contributions** means a donation that is made up of, includes, or is wholly or partly funded from 1 or more contributions

Clause 27: new section 103B

In *clause 27*, replace *new section 103B* (lines 17 to 21 on page 18) with:

“**103B Donations and contributions include GST**

All references to the amount or value of a donation or contribution are inclusive of any goods and services tax incurred by the donor or contributor in respect of the goods or services donated or contributed.

“Compare: 1993 No 87 s 207A

Clause 27

In *clause 27*, after *new section 103C* (after line 26 on page 18), insert:

“**103CA Contributors to be identified**

- “(1) This section applies to a donation (other than an anonymous donation) that is made up of, includes, or is wholly or partly funded from 1 or more contributions.
- “(2) If this section applies to a donation, the donor must, at the time of making the donation, disclose—
- “(a) the fact that the donation is funded from contributions; and
- “(b) the following information about any contribution that, either on its own or when aggregated with other contributions made by the same contributor to the donation, exceeds \$1,500 in sum or value:
- “(i) the name of the contributor; and
- “(ii) the address of the contributor; and
- “(iii) the amount of the contribution or, in the case of aggregated contributions, the total amount of the aggregated contributions; and
- “(c) the total of all of the amounts disclosed under **paragraph (b)(iii)** in relation to the donation; and
- “(d) the total of all of the other contributions made in relation to the donation.
- “(3) A candidate must give back to the donor the entire amount of the donation, or its entire value, if the candidate knows, or has reasonable grounds to believe, that the donor has failed to comply with **subsection (2)** in any respect.

“(4) For the purpose of **section 112A**, any amount given back by a candidate under **subsection (3)** is taken not to have been received by the candidate.

“Compare: 1993 No 87 s 207C

“**103CB Offence relating to contravention of section 103CA**

A donor who fails to comply with **section 103CA** with the intention of concealing the identity of any or all of the contributors commits an offence and is liable on conviction to a fine not exceeding \$5,000.

“Compare: 1993 No 87 s 207D

Clause 27: new section 103D

In *clause 27*, new *section 103D(1)(b)*, after “donor” (line 33 on page 18), insert “; and”.

In *clause 27*, after new *section 103D(1)(b)* (after line 33 on page 18), insert:

“(c) whether **section 103CA** applies to the donation and, if so, all information disclosed by the donor under **subsections (2)** of that section.

Clause 27: new section 103E

In *clause 27*, new *section 103E*, after “donor” (line 7 on page 19), insert “or any or all of the contributors”.

Clause 31: new section 112A

In *clause 31*, after new *section 112A(2)(a)* (after line 22 on page 22), insert:

“(ab) whether any donation is funded from contributions, and if so, and to the extent known or ascertainable from the information supplied under **section 103CA**, the details specified in **subsection (3A)** in respect of every contribution that, either on its own or when aggregated with other contributions by the same contributor to the donation, exceeds \$1,500 in sum or value; and

In *clause 31*, after new *section 112A(3)* (after line 34 on page 22), insert:

“(3A) The details referred to in **subsection (2)(ab)** are—

“(a) the name of the contributor; and
“(b) the address of the contributor; and
“(c) the amount of the contribution or, in the case of aggregated contributions, the total amount of the aggregated contributions.

Clause 40

Replace *clause 40(b)* (lines 20 to 25 on page 27) with:

(b) the following sections of the principal Act do not apply to donations received by a candidate before the commencement of this Act:

- (i) **section 103B**, to the extent it relates to contributions; and
- (ii) **section 103CA**; and
- (iii) **section 103D(1)(c)**; and
- (iv) **section 103E**, to the extent it relates to contributors; and
- (v) **section 103J**; and
- (vi) **section 112A(2)(ab), (3)(d), and (3A)**; and
- (vii) **section 112E**; and

Schedule

In *Schedule 1*, new *Schedule 2, Part A*, after the last bullet item (after line 33 on page 28), insert:

In the case of any electoral donation funded from contributions, set out the following details in respect of each contribution that, either on its own or when aggregated with other contributions made by the same contributor to the donation, exceeds \$1,500 in sum or value:

- *the name of the contributor:*
- *the address of the contributor:*
- *the total amount of the contributor's contributions made in relation to the donation.*

Explanatory note

This Supplementary Order Paper amends the Local Electoral Amendment Bill (No 2) to—

- require donors, when making a donation, to disclose—
 - when a donation is funded from contributions:
 - the name and address of every contributor making a total contribution of more than \$1,500, and the amount of that contribution:
 - the total amount of the contributions received from contributors making contributions of more than \$1,500:
 - the total amount of all of the other contributions:
- make it an offence for a donor not to make any of the above disclosures with the intention of concealing the identity of any or all of the contributors:
- require candidates to disclose in their return of electoral donations and expenses—
 - the amount of each contribution that, either on its own or when aggregated with all other contributions to the donation received from the same contributor, exceeds \$1,500 in sum or value and,

in respect of each such contribution, the name and address of the contributor.
