**LOCAL GOVERNMENT ACT AMENDMENT BILL 1983**

**Legislative Assembly, 22 March 1983, pages 507-8**

Second reading

**The Hon. T.H. HEMMINGS (Minister of Local Government)** obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934-1982, and to make a related amendment to the Valuation of Land Act, 1971­ 1981. Read a first time.

The Hon. T.H. HEMMINGS: I move: That this Bill be now read a second time. This Bill makes a number of relatively minor amendments to the Local Government Act. Its purpose is to streamline essentially administrative matters where difficulties have arisen from operational experience. Some drafting errors in the Act are corrected, head power is provided so that regulations can be made to transfer long service leave entitlement in cash upon transfer of employment, a late payment fee for expiation of parking offences is provided and councils are given the option of budgeting to refund rates that become overpaid as a result of a reduction in assessed value of a property by the Valuer-General with the refund being made in the next financial year subject to the council paying 10 per cent interest on the money. What I consider to be the most significant clause in this Bill is clause 11 to simplify the setting of rates. At present different kinds of rates (general, differential general and special) require different kinds of majorities (simple, three-quarters and absolute). I believe this is unnecessarily complex, and there is much to be said for simplifying and standardising the requirement. I seek leave to have the explanation of the clauses inserted in Hansard without my reading it. Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 amends section 3 of the principal Act, which deals with the arrangement of the Act. This is consequential upon a further amendment which is contained in this Bill. Clause 4 provides for the repeal of section 69, which deals with the qualifications for mayor or alderman (being one year’s service as councillor). Concern has been expressed that where a person is nominated for the office of mayor or chairman the returning officer cannot reject the nomination form where he knows that the nominee does not have the requisite one year’s service as a member of council, even though such a person, if elected, would be ineligible to serve. The requirements of section 69 are therefore to be transferred to that section of the Act which deals with eligibility for nomination.

Clause 5 amends, in two respects, section 105 of the principal Act, which concerns nominations. First, the section is proposed to be amended to provide that nomination forms be in the prescribed form, to allow greater flexibility. Secondly, the section is to be amended to include as a qualification for nomination as mayor or alderman the requirement that the person has previously been a councillor. This links up with the proposed repeal of the present section 69.

Clause 6 provides for the amendment of section 157. This section provides for continuity of service, in relation to long service leave and sick leave, for persons who move from one council to another. The effect of the proposed amendment is to allow councils to make appropriate adjustments on account of their respective liabilities to pay a transferring employee long service leave and sick leave at or about the time that the employee transfers employment; the Act presently requires the adjustment to be made at the time of payment to the employee, which may be several years after the transfer has occurred. The regulations are to prescribe how the adjustments are to be computed.

Clause 7 provides for the amendment of section 158 of the principal Act. This section deals with allowances and salaries for officers, mayors and chairmen. Mayoral allowances are determined soon after the annual elections in October, but this section refers to the declaration of allowances over financial years, and therefore creates some inconsistency. The amendment strikes out the reference to financial years. Clause 8 provides for the amendment of section 178b of the Act, which is consequential to another amendment provided for in this Bill. Clause 9 is also a consequential amendment to section 180 of the principal Act.

Clause 10 repeals the present section 213 and inserts a new section 213 and 213a in the principal Act. Amendments to the Valuation of Land Act, 1971-1981, have had an incidental effect on the position of councils under the present section 213, and the previous provisions referred to in the previous two clauses. Presently, where an appeal or objection is lodged against a valuation, the councils may still recover any rates which have been declared on the basis of that valuation, but in the event of a successful appeal or objection, an appropriate refund must be made. The proposed new provisions will enable a council to retain any amount found on appeal or review to have been paid in excess to be credited against a future liability of the ratepayer for rates. Interest is to accrue from the date of payment. If the council is informed that the ratepayer has ceased to be a ratepayer, it will be required to refund any amount standing to his credit. Also, any amounts which may be in credit after the declaration of the next general rate are to be refunded, thus preventing the indefinite accumulation of funds by councils. It is also noted that where an appeal or objection results in the council being able to recover further rates from a ratepayer, the councils cannot impose a fine on those rates, which might otherwise have been treated as arrears.

Clause 11 provides for the amendment of section 214, which deals with the declaration of general rates. The amendment provides that the declaration must be by resolution of an absolute majority. The amendment is proposed in order to provide uniformity in this Part of the Act. The proposed amendment also renders superfluous subsection (4) of the section. Clause 12 provides for slight amendment to section 228 of the Act. Subsection (3) of that section allows a council to exempt, in so far as is applicable, a property from the imposition of rates where the property extends across a council boundary and is subject only to a minimum rate in the other council. However, the subsection only refers to adjoining municipalities, which has a limiting effect where the municipality is adjacent to a district. Reference to municipalities is therefore to be changed to ‘areas’.

Clause 13 provides for amendment to section 233a, which is identical to the preceding provision under clause 12, except that reference in this section is to ‘districts’; this is to be changed to ‘areas’. Clause 14 amends section 248c of the principal Act. This section requires the provision of lists of those eligible for remissions of rates to be supplied to the councils. The amendment requires the Minister administering the Rates and Taxes Remission Act, 1974, to supply this information; the Minister of Local Government presently has this responsibility.

Clause 15 deals with proposed amendments to section 342. This section provides for the construction and maintenance of private roads in the City of Adelaide. The cost of such roads is recoverable from abutting owners. Provision is to be made so that the council may agree to the costs being paid in instalments. Furthermore, an additional provision is proposed to enable a council to reduce or remit a fine recoverable under the section on account of late payment, where it is appropriate so to do.

Clause 16 provides for amendment to section 343. This section deals with private roads other than those in the City of Adelaide, and the proposed amendments are similar to those contained in the preceding clause. Clause 17 amends section 344. This section relates to the completion of council work by laying pipes, drains and channels through private lands. The proposed amendment will allow councils to agree with affected owners that the owners carry out the required work themselves, at their own cost.

Clause 18 amends section 344a, which again relates to private roads. Amendments similar to those discussed in earlier clauses are again proposed. Clause 19 rectifies incorrect cross-references in section 368 of the principal Act. Clause 20 amends section 691, which sets out the regulationmaking powers of the Governor. Paragraph (f) of subsection (1) relates to the specification of qualifications of persons employed by councils and allows the constitution of committees to conduct examinations. The proposed amendment inserts an additional paragraph, which will provide power for regulations to be made allowing appeals from the decisions of a committee under paragraph (f).

Clause 21 rectifies an incorrect cross-reference in section 739 of the principal Act. Clause 22 rectifies a similar error in section 740. Clause 23 proposes an amendment to section 794a. This section deals with the expiation of offences. The amendment will allow the councils to accept a late payment of an expiation fee, on payment of a prescribed fee. Clause 24 provides a consequential amendment to the Valuation of Land Act, 1971-1981.

The Hon. B.C. EASTICK secured the adjournment of the debate.