

Report 01.25

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Report to the Policy & Finance Committee
from Lloyd Bezett, Policy Analyst, Council Secretariat

Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Bill

1. Purpose

To consider making a submission on the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Bill, introduced to Parliament late last year.

2. Background

The Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Bill has the following two purposes:

- To provide for the Higher Salaries Commission to determine the remuneration of members of local authorities,
- To require Local Authority Trading Enterprises (LATEs), while operating as successful businesses;
 - to achieve the objectives in their statements of corporate intent,
 - be a good employer, and
 - to exhibit a sense of social responsibility.
- To apply the provisions of the Local Government Official Information and Meetings Act and the Ombudsmen Act to LATEs.

The Bill has been referred to the Environment and Local Government Select Committee and submissions close on 19 February 2001. **Attachment 1** is the Explanatory Note to the Bill. Also enclosed as **Attachment 2** is a draft Local Government New Zealand submission.

3. Comment

With the approval of the Council a submission will be prepared commenting on the Local Government (Elected Member Remuneration and Trading Enterprises)

Amendment Bill on a clause by clause basis. The following comments relate to the issues on which the Council may wish to submit.

3.1 *Elected Members' Remuneration*

3.1.1 Higher Salaries Commission

The Bill provides that the Higher Salaries Commission will set ranges of remuneration, including meeting allowances and travel expenses for chairpersons, committee chairpersons and members of local authorities and community boards. The Minister of Local Government will have no role to play in this process. In setting ranges of remuneration the Commission will have regard to the following:

- The potential for remuneration to influence councillors' behaviour in relation to positions on the Council
- The need to achieve fair relativity with remuneration elsewhere,
- The need to be fair to elected members and the ratepayer, and
- The need to recruit and retain competent persons.

The Bill does not say how the Commission should approach the determination of elected members' salaries and allowances. The wording of the Bill suggests that there will be a greater emphasis on the salary element of remuneration and a corresponding reduction in the importance of meeting attendance allowances. The Council has supported the traditional view that being an elected member involves an element of community service. However, an effective remuneration system should also adequately reward elected members for their commitment. A liveable base salary with a reduced attendance component is the best way of compensating elected members while not encouraging unnecessary meetings or brief or non-contributory attendance.

While there are no clear statements on the commission approach to determining remuneration, there have been suggestions that it may follow a "bulk funding" approach. The Council's earlier submission favoured the Higher Salaries Commission developing a set of criteria that each local authority must take into account when setting its remuneration levels. This would mean a consistent process for the evaluation of elected members' remuneration that allows for local choice within defined parameters. Individual councils would then employ an independent professional agency to evaluate the job size of elected members using the approved criteria. The Commission would monitor and/or audit councils on compliance. This is similar to the approach currently taken by the Council with Deloitte Touche Tomatsu conducting a review of remuneration following each Ministerial Determination.

The concept of "fair relativity" with remuneration elsewhere has been reintroduced. Some years ago elected members' remuneration was benchmarked against the salary of Ministers without portfolio. While the remuneration for elected members has "fallen behind" in recent years, the Commission will be able to look at salaries paid to parliamentarians and directors of Crown entities.

The Bill does not direct the Commission how or when to carry out determinations for local authorities. The Higher Salaries Commission practice for parliamentarians and the

judiciary is to carry out reviews on an annual basis, and it is likely that this practice will be adopted for local government. The Local Government New Zealand submission recommends that this practice be codified in the legislation and that determinations be made in February to remove them sufficiently from the election to de-politicise the issue. It is recommended that the Council also support such an amendment.

At present the Bill does not require the High Salaries Commission to consult any organisation when making a determination. This is in contrast to the existing legislation, which allows the Minister to consult Local Government New Zealand. It is recommended that the Bill be amended so that the Commission may consult Local Government New Zealand.

3.1.2 Levy to pay for Determination

The Bill provides for the Governor-General, on recommendation of the Minister, to make an Order-in-Council setting a levy to met the costs of the Higher Salaries Commission in making a determination. It is recommended that the Minister be required to consult Local Government New Zealand prior to the setting of the levy.

3.1.3 Continuation of Salary past an Election

In 1999 the Council's submission to the Department of Internal Affairs noted that parliamentarians are entitled to a continuance of salary for a period of three months after a General Election. This provides financial security during a period of transition while recognising that, unlike employees, there is no security of tenure. The Council suggested in 1999 that consideration should be given to extending the same principle to local government.

The Council should also consider whether it wishes to support the draft Local Government New Zealand submission suggesting that salaries be continued for one month after retirement or defeat.

3.1.4 Superannuation

The Council, in its 1999 submission, suggested that elected members continue to be self employed but be able to receive subsidised superannuation from the Council in the same way as staff are able to.

Consideration should be given to whether this issue is pursued in a submission.

3.2 Local Authority Trading Enterprises

3.2.1 Social and Environmental Objectives

Section 594Q of the Local Government Act states:

“594Q. Principal objective to be successful business – The principal objective of every local authority trading enterprise shall be to operate as a successful business.”

This mirrors the provision in the State Owned Enterprises Act.

The proposed changes contained in the Bill clarify that being a successful business may include the achievement of social and environmental objectives. Local authorities will be able to include social and environmental objectives in the Statements of Corporate Intent (SCI) of their LATEs. While this has the potential to cause conflict between commercial and non-commercial objectives, this Council has already adopted this position with regard to its LATEs. Therefore it is recommended that this amendment should be supported.

3.2.2 Local Government Official Information and Meetings Act/Ombudsmen Act

Clauses 8 and 9 of the Bill make LATEs subject to the requirements of the Local Government Official Information and Meetings Act in that all information shall be available to the public unless good reason exists for withholding it.

It is understood that these provisions have been included because State Owned Enterprises (SOEs) and other Crown entities are subject to the Official Information Act.

It should be noted that SOEs are wholly owned by the Crown and therefore are different to LATEs, which may be up to 50 per cent owned by the private sector. Also some LATEs operate in a very competitive environment where the practical result would be all information would be withheld anyway for commercial reasons. The likely effect is a huge increase in the workload of the Office of the Ombudsmen.

There is significant potential for clauses 8 and 9 to affect the operation of LATEs as successful businesses. Private sector companies, with which LATEs often compete, will not be required to make commercial sensitive information available to the public and will be put at a competitive advantage. LATEs are already required to make significant amounts of financial information available to the public, both under the Local Government Act and the Companies Act. In addition all information supplied to shareholding local authorities is also subject to official information requests. It is therefore difficult to understand how accountability to the wider community will be enhanced by the enactment of these provisions.

It is recommended that the Council support the deletion of clauses 8 and 9.

4. Recommendation

- (1) That the submission to the Environment and Local Government Select Committee on the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Bill, as outlined in Report 01.25, be approved.*
- (2) That a submission, as outlined in Report 01.25, be made to Local Government New Zealand.*

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