



## NSW Legislative Council Hansard

### Election Funding Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Wednesday 18 October 2006.

#### Second Reading

**The Hon. JOHN DELLA BOSCA** (Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Vice-President of the Executive Council) [11.44 a.m.]: I move:

That this bill be now read a second time.

As the remarks are somewhat lengthy, I seek leave to have them incorporated in *Hansard*.

#### Leave not granted.

The Election Funding Act imposes obligations on parties, candidates, individuals and organisations to disclose political donations and campaign expenditure. It is important legislation that helps ensure the transparency of the electoral process. The Act also provides for the public funding of part of the costs of candidates and political parties during election campaigns. This ensures greater fairness among the relevant candidates and parties, and reduces the need for separate fundraising activities. The Act is administered by the Election Funding Authority, which is chaired by the Electoral Commissioner. The commissioner has, on behalf of the authority, drawn to the Government's attention the need for two amendments to the Act. The first amendment relates to the provisions in the Act that require the disclosure of political donations and electoral expenditure incurred in connection with an election.

The Electoral Commissioner has highlighted a recent case that shows that the important disclosure provisions of the Act could be undermined. The problem arises because the authority has no power to require a person to provide information to the authority about the identity of another person or organisation that might have failed to disclose a political donation or electoral expenditure. In the particular case highlighted by the Electoral Commissioner, a political organisation arranged for a number of individuals and businesses to make a contribution to the cost of electoral advertising. The political organisation arranged for the advertisements to be placed in various local media. The organisation also arranged for the media agency that ran the advertisements to bill the individuals and businesses that contributed to the advertisements directly, rather than bill the political organisation.

The individuals and businesses that paid for the advertisements were required under the Election Funding Act to disclose this expenditure, but did not do so. Neither the media agency nor the political organisation had an obligation to disclose the electoral expenditure, as they had not incurred the advertising expenditure themselves. Further, the authority had no power to require either the political organisation or the media agency to identify those individuals and businesses that had paid for the advertisements. Item [2] of the bill will amend the Act to give the authority, or an authorised officer of the authority, the power to demand from a person the name and address of another person where the authority reasonably suspects that the other person has failed to disclose political donations or electoral expenditure, as required by the Act. The power will only be able to be exercised in circumstances where the authority or authorised officer has a reasonable suspicion that the person may have information that enables the person who incurred the electoral expenditure to be identified. As the remaining remarks are lengthy and have been delivered in the other House, I seek leave to have the balance of my remarks incorporated in *Hansard*.

#### Leave not granted.

The Authority declined to reimburse those invoices from the Constituency Fund. This was because the Crown Solicitor advised that candidates could only claim for expenditure that they themselves incur, or for expenditure that is incurred by the party for its candidates pursuant to a formal agency arrangement. The Greens candidate in this particular case had not incurred the expenditure personally, and he did not have a formal agency arrangement with his party. In the context of the by-election, the Greens were ultimately able to obtain reimbursement from the Constituency Fund by resubmitting their claim to ensure it was made by the party and not by the candidate. This is possible because the Election Funding Act enables parties to claim on the Constituency Fund for by-elections.

This is not the case, however, for general elections. If this claim were to be made in a general election, it would be refused because the Act does not enable parties to claim directly on the Constituency Fund for general elections. As a result of the Crown Solicitor's advice, the authority will now need to also refuse those claims made in respect of invoices issued by political parties to individual candidates for expenditure incurred by the party on behalf of the candidate, unless a formal agency arrangement is in place. This is despite such claims

being routinely accepted in the past. As honourable members will be aware, political parties often arrange advertising and incur other expenditure on behalf of the candidates that they endorse. I refer honourable members to the second reading speech delivered in the other place and commend the bill to the house.