

**Local Government Act 2002 Amendment Bill**

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***Aim of the Bill - Increased Efficiency and Focus on Core Functions***

This Bill aims to improve the operation of local government and the delivery of public services by focusing councils on operating more efficiently and within a more confined sphere than currently.

It introduces a significant change to the purpose of local government, moving away from the very broad current purpose which encompasses social, economic, cultural and environmental well-being, as well as a sustainable development approach. The current broad purpose would be replaced by one of "meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions."

Similar changes would be made to the definitions of "community outcomes" and "significance", and to the principles relating to local authorities. The current references to social, economic, cultural and environmental "well-being" would be replaced with references to "interests" at several places in the Act, including in relation to decision-making processes.

The term "good-quality" would be defined, in relation to local infrastructure, local public services, and performance of regulatory functions as meaning "efficient, effective, and appropriate to present and anticipated future circumstances."

***Role and Powers of Mayors***

The role and power of mayors would be defined, being to provide leadership to the other members of the territorial authority and the people in the district. Such leadership is to include leading the development of the territorial authority's plans, policies, and budgets. The powers of the mayor would include the appointment of the deputy mayor, the establishment of committees and the appointment of chairpersons for committees.

***Remuneration and Employment Policy***

There would be a new ability for a local authority to adopt a remuneration and employment policy, to set the employee staffing levels and the remuneration of employees. If such a policy is adopted, then it have to be reviewed at intervals of no more than 3 years. There would also be a requirement for annual reporting to include a report on employee staffing levels and remuneration.

***Ministerial Intervention in Affairs of Local Authorities***

The current provisions for the Minister to intervene in the affairs of local authorities would be expanded, including the following changes:

- Currently, the power of intervention may be exercised when local authorities cannot perform or are not properly performing their function, duties and responsibilities. Before the Minister may intervene, under the current legislation, there must be:
  - significant or persistent failure to meet the local authority's statutory obligations; or

- significant and identifiable mismanagement of the resources of the local authority; or
- significant and identifiable deficiencies in the management or decision-making processes of the local authority.
- The amendment would enable intervention by the Minister in "problem" situations. "Problem" is widely defined as meaning:
  - a matter or circumstances relating to the management or governance of the local authority that detracts from, or is likely to detract from, its ability to give effect to the purpose of local government within its district or region, including the potential for this problem to occur; or
  - the consequences of a state of emergency affecting, or recently affecting, the local authority's district or region, including the potential for this problem to occur; and
  - includes a failure by the local authority to demonstrate prudent management of its revenues, expenses, assets, liabilities, investments, or general financial dealings in terms of any parameters or benchmarks prescribed by regulations (another amendment provides a new ability to make such regulations).
- If the Minister believes that a problem situation exists, then the Minister may:
  - require the local authority to provide information on the nature and extent of the problem, and how it will be addressed by the local authority; or
  - appoint a Crown Review Team to investigate and report on the nature and extent of the problem make recommendations to the local authority and the Minister on how the local authority could address the problem; or
  - appoint a Crown Observer to assist the local authority to address the problem; or
  - appoint a Crown Manager to direct the local authority to address the problem; or
  - appoint a Commission to perform the functions and duties and exercise the powers of the local authority and its members.

### ***Regulations for Prudent Financial Management***

As mentioned earlier, the power to make regulations would be expanded by adding the power to make regulations "prescribing parameters or benchmarks for assessing whether a local authority is prudently managing its revenues, expenses, assets, liabilities, investments, and general financial dealings." Such parameters or benchmarks may include:

- reference to fixed terms, for example, the debt of a local authority in a financial year, generally, should not exceed a fixed sum per resident;
- the use of ratios, factors, or other relative terms, for example, the expenditure of a local authority in a financial year, generally, should not increase by more than the ratio of population growth multiplied by the rate of increase of the CPI;
- reference to circumstances, statistics, or other publicly available information, whether only concerning local authorities and their district and regions or otherwise.

The Minister could only recommend the making of such regulations if the content of the recommendations had been developed in consultation with the New Zealand Local Government Association Incorporated.

### ***Reorganisation Procedures***

Procedures to reorganise local government bodies would receive a substantial overhaul, including the following changes:

- The threshold for who, in addition to the Minister and 1 or more of the affected local authorities, may make a reorganisation application would change. Currently, reorganisation may be sought by a petition from at least 10% of the electors in the relevant district or region. That would change to enable "any body or group with an interest in the governance of the area or areas that the reorganisation application relates to" to make a reorganisation application;
- There would be a prohibition on making a reorganisation application if the application relates to a local authority that has been the subject of a reorganisation scheme prepared by the Local Government Commission within a prior period of up to 3 years;
- Power would be given to the Government, where a reorganisation proposal has been notified but not finally determined, to extend the time for affected local authorities to prepare or adopt plans, policies or strategies required by enactments, and to postpone elections of members of the local authority;
- Once a reorganisation proposal has been made, the Commission would be required to make assessments as to whether:
  - the application has significant community support; and
  - the changes proposed will promote good local government.
- "Significant community support" is defined as "support from a large proportion of the community, or of the leaders of the community". In assessing whether or not the application has significant community support, the Commission may consider relevant matters including a petition of affected electors, questionnaires or surveys of ratepayers or residents, submissions or other correspondence, and meetings with community members.
- The Commission must also assess whether the proposed changes "will promote good local government", by reference to whether the changes will:
  - improve local government in the area to which the application relates; and
  - facilitate, in the affected local authority or authorities -
    - efficiencies and cost savings; and
    - productivity improvements, both within the affected local authorities and for the businesses and households that interact with those local authorities; and
    - simplified planning processes within and across the district or region through, for example, the integration of statutory plans or a reduction in the number of plans to be prepared or approved by the local authority.

These factors are to be taken into account together with matters already specified in the current legislation.

- If the Commission is satisfied that a reorganisation application has significant community support and will promote good local government, it may proceed to develop a proposal which would give effect to the application, or some modification of it. It may also decline the application at this stage.
- If the Commission proceeds to develop a draft reorganisation proposal, then it must publicly notify the proposal and seek the views of affected parties, including by considering any submissions lodged by those parties. The Commission then develops and issues a final proposal and publicly notifies it, together with a statement explaining how the final proposal will promote good local government, and the advantages and disadvantages of the final proposal.
- At that stage, affected electors may demand a poll to determine whether or not the final proposal is to proceed and become a reorganisation scheme. The poll may be demanded by a petition of at least 10% of the eligible electors. The poll must be conducted under the Local Electoral Act, and at the expense of the affected local authorities.
- If more than 50% of the valid votes cast in the poll are for a final proposal, or if no poll is held, the commission must prepare a reorganisation scheme to give effect to the proposal. In every other case, the final proposal must not proceed.
- Where a proposal is to proceed and become a reorganisation scheme, the Bill specifies a number of matters which must be included in the scheme, and other matters which may be included if considered necessary or desirable, such as provisions dealing with the administration of plans and consents under the RMA, and provisions concerning rating.
- A reorganisation scheme would then be given effect to by an Order in Council.