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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Local Government and Administrative Services, the Hon. Tom Uren, MP)

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LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) BILL 1986

OUTLINE

The Local Government Financial Assistance Bill 1986 replaces the Local Government (Personal Income Tax Sharing) Act 1976 as the basis upon which general purpose financial assistance is provided to Local Government through the States and the Northern Territory.

The Bill's principal objective is to allow for the allocation of funds to Local Government in such a way as to equalise each Local Government's ability to undertake its functions with respect to the average standard performance of other Local Governments in its State.

In achieving the above objective, the Bill also ensures that each Local Government receives at least a minimum grant which will be no less than what that Local Government would be entitled to if 30% of a State's funds were allocated among Local Government bodies on a per capita basis.

The level of funding will be based on the amount Local Government was eligible for in 1985/86 under the Local Government (Personal Income Tax Sharing) Act 1976, plus a relatively small adjustment to cover the inclusion of the Northern Territory. For 1986/87 and 1987/88 the base amount will be escalated by the change to the March to March consumer price index (CPI) or a growth factor that is the same as that pertaining to the general purpose financial assistance provided to the States, whichever is the greater. From 1987/88 onwards, subsequent adjustments to the base amount are to be the same as the treatment of general purpose assistance to the States.

The Northern Territory is included in the Bill, which changes its present treatment under the Memorandum of Understanding, and in 1986/87, the base amount is adjusted to allow for the Territory's inclusion on the same average per capita basis as the States.

State shares are to be phased from the present relativities under the Local Government (Personal Income Tax Sharing) Act 1976, to relativities based on population shares by 1989/90.

The Bill provides for allocations among Local Governments to be made by a Local Government Grants Commission in each State and the Northern Territory, based on principles determined by each State and the Territory, and approved by the Commonwealth Minister. These principles may be phased in over a five year period.

Financial Impact

Assuming a rate of inflation of 7% per annum in 1986/87, payment in that year under the Bill could be as low as $578.9M. Payments would be as high as $590.4M if the States received a real terms increase of 2% in their general financial assistance from the Commonwealth.

Using the same assumptions for 1987/88, payments could vary between $619.4M and $644.4M.

There will be a small offset to Commonwealth budgetary outlays caused by a reduction of some $2.45M (adjusted upwards for changes in the CPI or for percentage changes in general purpose payments to the States, whichever is the greater) in Northern Territory general revenue grants.

For purposes of comparison, Commonwealth payments for general purpose assistance to Local Government in 1985/86 were $538.5M.

NOTES ON CLAUSES

Clauses 1 and 2

1. The first two clauses of the Bill provide for the short title and commencement of the legislation.

Clause 3: Interpretation

2. The purposes of definitions used in the legislation are detailed below.

Sub-clause 3(1)

3. The definition of 'base figure' is required to determine the estimated grant payable to Local Government.

   For 1986/87 the $540,982,049 in the formula is ascertained by adding to the final amount payable to Local Government in 1985/86 under the Local Government (Personal Income Tax Sharing) Act 1976 and under arrangements with the Northern Territory, an amount to bring the Northern Territory into the new Act on the same per capita basis as the States. The base figure is then arrived at by multiplying the $540,982,049 by the estimated inflation rate or the estimated percentage change in general purpose payments to the States, whichever is the greater.

   For 1987/88 the base figure is arrived at by adjusting the final 1986/87 base figure by the estimated inflation rate or the estimated percentage change in general purpose payments to the States, whichever is the greater.

   For subsequent years the base is adjusted only by the estimated percentage change in general purpose payments to the States.

4. The definition of estimated factor is required to permit an estimate to be made of the amount payable for Local Government in each year. In 1986/87 and 1987/88 it is the greater of the estimated rise in the CPI and the estimated percentage change in general financial assistance to the States. In subsequent years it is the latter factor only.

5. The definition of final factor is required to determine whether the amount payable for Local Government earlier in the year, needs to be adjusted. In 1986/87 and 1987/88 it is the greater of the actual rise in the CPI and the actual percentage change in general financial assistance to the States. In subsequent years it is the latter factor only.

6. The definition of 'local governing body' allows for eligibility for funding of those bodies which:

   - are classified as Local Governments under the relevant State laws; and

- are not Local Governments but, in the opinion of the relevant State Minister, perform a range of functions considered similar to those performed by general purpose Local Governments. In the case of the Northern Territory, for example, incorporated bodies performing general Local Government functions would be eligible for inclusion under the legislation as a result of this definition.

This definition eliminates anomalies that existed in previous legislation, whereby incorporated bodies performing general Local Government functions were not eligible to be funded.

7. 'Local Government Grants Commissions' are the bodies which recommend on the allocation of funds provided under the Act in each State and the Northern Territory. The means by which they are recognised under the Bill is set out in Clause 4 and aspects of their operation as required under the Act are set out in Section 10.

8. 'Relevant State Minister'.

9. 'State'.

10. 'Statistician'.

11. 'Year'.

12. 'Year to which this Act applies'.

Clause 4: Local Government Grants Commissions of States

13. This clause establishes the conditions and mechanism through which Local Government Grants Commissions will be declared as appropriate bodies for the purposes of making recommendations on the distribution of grants.

Sub-clause 4(1)(a)

14. This establishes that the main function of States' Local Government Grants Commissions is to make recommendations on the distribution of grants between local governing bodies, in their respective States.

Sub-clause 4(1)(b)

15. This sub-clause provides a condition in relation to the composition of a Commission.

Sub-clause 4(2)

16. This sub-clause provides that if a Local Government Grants Commission was recognised under the Local Government (Personal Income Tax Sharing) Act 1976, it shall continue to be recognised under the new Act, subject to the proviso that, by 1990, such a Commission must have as members at least 2 persons who are or have been associated with Local Government. It is intended to:

(a) avoid unnecessary declarations

(b) give States time to adjust to the new rule relating to minimum membership of 'Local Government' persons.

Sub-clause 4(3)

17. This sub-clause has been included to provide a limitation on the time State Grants Commissions are required to take to adapt to the condition relating to membership of the Commission.

Clause 5: Determination of estimated factor

18. This clause is required to establish the factor that will be used to change the base amount each year and thereby provide an estimate of the funds available for Local Government.

Sub-clause 5(1)

19. This sub-clause requires the Treasurer in 1986 and 1987 to estimate for the coming financial year, both the estimated CPI and the estimated percentage increase in general purpose payments to the States and publish the greater figure.

Sub-clause 5(2)

20. This sub-clause requires the Treasurer in 1988 and subsequent years to estimate and publish the estimated percentage increase in general purpose payments to the States.

Sub-clause 5(3)

21. This sub-clause requires the Treasurer to provide advice of the estimated factor to each State Treasurer. It thereby provides the States with part of the information which is needed for their Local Government Grants Commissions to allocate funds amongst local governing bodies in their respective States.

Clause 6: Determination of the final factor

22. This clause outlines the means by which to establish, each year, the figure that will be used to determine the adjustment (if any) to be made to the grants made earlier in that year to the States for on passing to Local Government.

Sub-clause 6(1)

23. This clause requires publication of the final factor and specifies that in both 1986/87 and 1987/88, it shall be the greater of either the change in the CPI as compared with the previous year or the percentage change in general financial assistance to the States as compared with the previous year.

Sub-clause 6(2)

24. This clause requires publication of the final factor in 1988/89 and subsequent years and specifies that the final factor shall be the percentage change in general financial assistance to the States as compared with the previous year.

Sub-clause 6(3)

25. This sub-clause requires the Treasurer to give notice of the final factor to each of his counterparts in the States each year.

Sub-clause 6(4)

26. This sub-clause establishes the means by which the Treasurer shall calculate the change in the CPI for each of the years 1986/87 and 1987/88.

Sub-clause 6(5)

27. This sub-clause establishes the means by which the Treasurer shall calculate the percentage change in general purpose payments to the States for each of the years in which the Act operates.

Sub-clause 6(6)

28. This provides that any subsequent revisions to the index number be disregarded for the purpose of determining the final amount payable.

Sub-clause 6(7)

29. This provides that in the event of any subsequent changes to the reference base of the index, any revised index as a consequence of these changes will be adopted for the purposes of determining the final amount payable.

Sub-clause 6(8)

30. This identifies the index referred to in 6(4) as the CPI.

Sub-clause 6(9)

31. This clause recognises the fact that payments to the Northern Territory are provided on a different basis to those of the States and consequently should not be included in the calculations for the purposes of this Bill.

Clause 7: Determination of State entitlements

32. This clause defines the method by which the State shares will be determined.

Sub-clause 7(1)

33. This clause sets out the shares of the total amount that the States are entitled to in 1986/87. The shares are the same as provided for under the Local Government (Personal Income Tax Sharing) Act 1976 after including the Northern Territory on the same per capita basis as the States.

Sub-clause 7(2)

34. This clause sets out the shares of the total amount that the States are entitled to in 1987/88. The shares represent half the difference between 1986/87 shares and 1988/89 shares.

Sub-clause 7(3)

35. This clause sets out the shares of the total amount that the States are entitled to in 1988/89. They are based on projections of population by the Australian Statistician.

Sub-clause 7(4)

36. Under the arrangements for 1989/90 and onwards, State shares will be determined on the basis of the relativities between estimated State populations on 31 December of the previous year.

Sub-clause 7(5)

37. Estimated State populations from the year commencing 1989/90 will be determined by the Australian Statistician.

Sub-clause 7(6)

38. This clause requires the population estimate of each State, from the year commencing 1989/90, to be made by June 10. This date represents the earliest time at which such information is likely to be available and is consistent with a similar requirement in the States Grants (General Revenue) Act 1985.

Sub-clause 7(7)

39. This clause provides guidance to the Australian Statistician in his calculation of State populations.

Sub-clause 7(8)

40. This clause requires the publication of population estimates, from the year commencing 1989/90, thereby providing the basis for determining State shares of grants.

Sub-clause 7(9)

41. This clause provides for the States to be advised of their share of grants.

Sub-clause 7(10)

42. This recognises that a State cannot trigger a request for a payment under the Act until:

    (a) it has been notified of estimated payments for the year concerned; and

    (b) the State share of the total fund for that year has been published.

Clause 8: Adjustment consequential on difference between estimated and final factor

43. This clause stipulates what shall happen in the event that the grant paid to Local Government early in the year has to be adjusted upwards or downwards towards the end of the year because the final calculation of the grant turns out to be different from the estimated calculation.

Sub-clause 8(1)

44. This clause provides that if the calculations indicate that the grant was less than should have been paid then the States are entitled to the additional monies involved.

Sub-clause 8(2)

45. This clause provides that if the calculations indicate that the grant was more than should have been paid then the State is required to pay the Commonwealth the monies involved.

Sub-clause 8(3)

46. This provides that the payment of an adjusting amount to a State may be included in the following year's payment to that State. This is to allow for the possibility that the adjustment may be small and not justify payment until the following year.

Sub-clause 8(4)

47. This clause provides for a State to offset any liability that might arise under this Act against monies owing by the Commonwealth under the Act.

Sub-clause 8(5)

48. This clause gives the Treasurer authority to determine when a payment due by the State under this Section shall be paid.

Clause 9: Principles of allocation by States amongst local governing bodies

49. This clause establishes how the principles to be used in the allocation of funds amongst local governing bodies are to be determined and when they will come into operation.

Sub-clause 9(1)

50. Each State is required to provide to the Minister before 1 July 1987 principles which the State has formulated.

Sub-clause 9(2)(a)

51. States are required to consult Local Government in formulating principles.

Sub-clause 9(2)(b)

52. This clause defines the principle objective in determining principles for allocation. This objective allows for the allocation of funds to Local Government in such a way as to equalise each Local Government's ability to undertake its functions with respect to the average standard performance of other Local Governments in the State concerned.

Sub-clause 9(2)(c)

53. The intention of this sub-clause is that in allocating the funds on the basis of 9(2)(b), a cross-check will be made to ensure that no local governing body receives less than what it would be entitled to if 30% of the State's funds were to be distributed on a straight per capita basis between local governing bodies. The effect of this is to provide each local governing body with a guaranteed minimum grant.

Sub-clause 9(3)

54. Each State is required to advise the Minister as to which local governing bodies it has consulted in formulating principles.

Sub-clause 9(4)

55. The intention of this clause is to provide the Commonwealth Minister with the power to determine the principles that will apply to any State where, either that State does not propose to formulate principles, the principles are not formulated within a specified time or principles have been formulated that the Minister is not prepared to approve.

Sub-clause 9(5)

56. This clause permits the Commonwealth Minister to approve principles formulated by a State.

Sub-clause 9(6)

57. This allows for the revocation or variation of principles by a State, subject to approval by the Minister.

Sub-clause 9(7)

58. This allows for the revocation or variation of those principles determined by the Commonwealth Minister.

Sub-clause 9(8)

59. This allows for the possibility of a review of principles by the Commonwealth Minister every three years after their approval and for the Commonwealth Minister to revoke or vary them if necessary after such reviews.

Sub-clause 9(9)

60. This sub-clause requires that the principles enter into force no later than 1 July 1991 but that the Minister may approve them entering into force before then.

Sub-clause 9(10)

61. This sub-clause permits State Ministers to recommend that the principles enter into force earlier than July 1991.

Clause 10: Allocation amongst Local Government bodies

62. This clause establishes the conditions under which a State will be entitled to receive funds.

Sub-clause 10(1)

63. Under the arrangements a State will not be entitled to receive funds unless:

- it has a Local Government Grants Commission;
- that Commission has recommended on the distribution of funds, held public hearings and permitted local governing bodies to make submissions to it;
- the Minister is satisfied that every 3 years the Grants Commission will publish details of its methodologies;
- the State has had regard to the Commission's recommendations;
- the State Minister has advised of allocations amongst local governing bodies in his State; and
- the Minister is satisfied that the allocations are in accordance with either the principles as set out in paragraph 9, the methods of allocation applying under the previous Act, or an agreement between the Minister and the State Ministers modifying those methods.

Clause 11: Conditions of payments to States

64. This clause establishes the procedural conditions under which payments to the States will be made, namely:

- payments to determined local bodies to be unconditional, made without delay, and in accordance with Section 10; and
- a certified statement accounting for how the funds were distributed be provided as soon as practicable after the end of the year.

Clause 12: Additional condition

65. This clause provides for repayment of whole or part of a grant where the State has not fulfilled the conditions of the grant.

Clause 13: Reports etc. of Local Government Grants Commissions

66. This clause places a requirement on the Minister to table reports in Parliament and stipulates that this must be done within a certain time.

Clause 14: Review

67. This clause provides for a review of the Act.

Sub-clause 14(1)

68. This sub-clause stipulates the earliest time when a review shall occur - after 30th June 1992. That date is one year after which the principles are required to enter fully into force and is considered to be the earliest practicable time to hold a review.

Sub-clause 14(2)

69. This sub-clause lists matters that are considered essential to be considered in any review. In addition it provides flexibility for other matters to be examined.

Clause 15: Appropriation

70. This clause makes the necessary appropriation from the Consolidated Revenue Fund.

Clause 16: Repeal

71. This clause allows for the repealing of previous related Acts.

Sub-clause 16(1)

72. This lists the previous Acts to be repealed.

Sub-clause 16(2)

73. This allows for the continued operation of the previous Act with respect to the years to which it applied.

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