

2002

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

COMMUNITY REFERENDUM BILL 2002

EXPLANATORY Statement

Circulated by the authority of Gary Humphries MLA
Leader of the Opposition

OUTLINE

The purpose of this Bill is to provide a mechanism for electors of the Australian Capital Territory to initiate changes to the laws of the ACT to the extent permitted by the Australian Capital Territory (Self-Government Act 1988).

The steps set out in the Bill to enable electors to initiate and vote on legislation are as follows:

Step 1 - establishment notice. A sponsoring committee (?-10 electors) is established for the purpose of initiating a request to make or change a law. The sponsoring committee registers its establishment notice with the Electoral Commissioner. Including the names and addresses of the members of the committee, the name of the committee's contact officer and a description, in no more than 100 words, of what the legislative proposal is to achieve.

Step 2 - registration of proposal. Once the sponsoring committee has submitted the names, addresses and signatures of 1,000 or more electors who support the proposal, the Electoral Commissioner registers the legislative proposal and publishes a notice in the *Gazette*.

Step 3 - support by 5% or 10% of electors. After registration, the sponsoring committee has 6 months in which to gather the support of electors to have their legislative proposal submitted to the people for decision at a referendum. If the Electoral Commissioner is satisfied (after checking a random sample of signatures of electors) that more than 5% of the number of electors eligible to vote in the previous Legislative Assembly election have indicated support for the proposal being put to referendum, the Commissioner publishes a notice in the *Gazette* advising that the registered legislative proposal may be put to a referendum. If the Commissioner is satisfied that more than 10% of that number of electors has indicated support for the proposal, the Commissioner publishes a further notice in the *Gazette* advising that the registered legislative proposal has become a qualified legislative proposal (which may be put to a referendum at an earlier time - see step six).

Step 4 - development of proposed law. The sponsoring committee may then begin the task of developing legislation to give effect to the registered proposal. Officers of the Attorney-General's Department shall assist with this task. Once the proposed law is drafted, the sponsoring committee may apply to the Attorney-General for certification that the proposed law is consistent with the registered legislative proposal sponsored by the committee and is suitable for presentation to the Legislative Assembly.

Step 5 - presentation of the proposed law to the Legislative Assembly. The sponsoring committee may give the proposed law and accompanying Attorney-General's certificate to the Legislative Assembly. If so, the Speaker must lay the proposed law and certificate before the Assembly and request the Chief Minister to estimate the costs or savings of the proposal. The Assembly may decide to pass the same law, or enact its own law to give effect to the intentions of the proposed law, in which case there is no need for a referendum. Alternatively, the Assembly may decide to refer the proposed law to a referendum. If the Assembly does nothing, the proposed law goes to referendum anyway.

The most important aspects of the Bill are:

Step 6 - a referendum. In the usual case, once a proposed law giving effect to a legislative proposal is tabled in the Assembly, a referendum will be held in conjunction with the next general election of the Legislative Assembly, so long as that election is four months after the

day the proposed law has been tabled in the Assembly . The day of the referendum is called a *community consultation day*. Referendums are to be conducted by the ACT Electoral Commission under the *Referendum (Machinery Provisions) Act 1994*. "For" and "Against" cases may be distributed to households as part of the referendum process.

However, where a proposal has become a qualified legislative proposal gaining the approval of more than 10% of electors, and the Bill is tabled prior to 31 May in the first two years of the three year life of an Assembly, it will be put to referendum at a special *community consultation day* on the following third Saturday in October in that year. Should that occur, any other proposals that are eligible to be considered at the next ordinary community consultation day will also be put to referendum on the special community consultation day.

Step 7- presentation of the referendum result to the Legislative Assembly. Where a referendum has been approved by a majority of formal voters, the Speaker shall notify the Assembly of the result determined by the Electoral Commissioner. The Chief Minister may then move a motion in the Legislative Assembly that it enact the proposed law. Under the *Australian Capital Territory (Self Government Act 1988)* the Legislative Assembly cannot be bound to pass a proposed law that has gained the approval of a majority of voters at a referendum.

This Community Referendum Bill 2002 is largely an updated republication of the Bill presented to the Assembly in 1998. As a general proposition, the policy contained in the 1998 Bill is repeated in the 2002 Bill which conforms with the drafting conventions currently being followed in ACT law.