

1997
THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

Health Promotion (Amendment) Bill 1997

EXPLANATORY MEMORANDUM

**Circulated by the authority of
Kate Carnell MLA
Minister for Health and Community Care**

HEALTH PROMOTION (AMENDMENT) BILL 1997

OUTLINE

The objective of this Bill is to amend the *Health Promotion Act 1995* so that payments to the Health Promotion Board will, from 1 July 1997, be based on 5% of actual tobacco franchise fees paid to the Territory and not 5% of projected tobacco franchise fees as is currently the case.

The Bill seeks to provide greater certainty on funding levels available to the Board to implement its programs by eliminating the fluctuations that can occur when payments are based on revenue projections.

The opportunity is also taken to repeal Section 28 of the Act which is no longer relevant.

DETAILS OF THE BILL

Formal Provisions

Clauses 1, 2 and 3 provide for the short title and commencement of the Bill, and for the *Health Promotion Act 1995* to be referred to as the "Principal Act".

The provisions of the Bill dealing with payments to the Health Promotion Board (clauses 4 and 5) are to commence on 1 July 1997; all other provisions are to commence earlier, on the day the Bill is notified in the Gazette.

Income of the Board

Clause 4 amends s. 23 of the Principal Act, which deals with the income of the Health Promotion Board.

At present, paragraph 23 (b) of the Principal Act provides that the Board's income includes -

"(b) the amount of the percentage of the projected total annual tobacco franchise fees transferred to the Board annually under subsection 24 (2);"

Clause 5 of the Bill, however, amends s. 24 (2) of the Principal Act to provide a different method for determining this amount (see below).

Accordingly, clause 4 of the Bill substitutes a new s. 23 (b) of the Principal Act which refers simply to "the amount transferred to the Board annually under subsection 24 (2)", without referring to the method by which this amount is calculated.

Transfers to the Board - tobacco franchise fees

Paragraph 5 (a) of the Bill amends s. 24 of the Principal Act to provide for a different method of funding transfer payments to the Board from the Government.

At present, s. 24 (2) of the Principal Act provides as follows

"(2) The Territory shall transfer to the Board in each financial year the amount appropriated for the purposes of this subsection equal to 5% of the projected total of the tobacco franchise fees to be received by the Territory in that financial year, or such higher percentage of the projected total of those fees as is determined by the Minister."

A new s. 24 (2) is substituted by cl. 5 (a) of the Bill to provide for transfers to the Board to be based on 5% of the actual tobacco franchise fees paid to the Territory in the previous calendar year, together with any additional amount determined by the Minister.

Paragraph 5 (b) of the Bill amends s. 24 (3) of the Principal Act as a consequence of the amendment to s. 24 (2) of the Principal Act in paragraph 5 (a) of the Bill.

At present, s. 24 (3) of the Principal Act provides that -

"(3) A determination under subsection (1) or (2) [of s. 24] shall be laid before the Legislative Assembly within 15 sitting days after it is made."

Currently, determinations "under subsection (2)" are determination of a higher percentage of projected tobacco franchise fees. The Principal Act, as amended, will no longer provide for these. However, s. 24 (2) (b) of the Principal Act, as amended by paragraph 5 (a) of the Bill, will provide for determinations of additional payments by the Minister. The amendments of the Principal Act effected by clause 5 will have the effect of ensuring that these new determinations are laid before the Assembly in the same way as the old determinations.

In the interests of greater precision, the amendment to s. 24 (3) of the Principal Act provides for the substitution of the current reference to subsection (2) (of s. 24) with a reference to paragraph (2) (b) (of s. 24).

Repeal of s. 28

Clause 6 of the Bill repeals s. 28 of the Principal Act.

At present, s. 28 of the Principal Act applies to the Board Divisions 1 and 2 of Part IX of the *Audit Act 1989* relating to bank accounts, investments, etc.

The Audit Act was, however, repealed in 1996 and replaced by the *Financial Management Act 1996*. For the purposes of Part VIII of the Financial Management Act, the Board is a "Territory Authority" to which provisions analogous to Divisions 1 and 2 of part IX of the Audit Act apply automatically.

Accordingly, s. 28 of the Principal Act no longer has any application, and is repealed.