



New South Wales

NSW Jobs Commission Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to establish a NSW Jobs Commission to inquire into and advise on matters affecting jobs growth and retention particularly in relation to regional areas.

Outline of provisions

Part 1 Preliminary

Part 1 (**clauses 1–3**) contains provisions relating to the name of the proposed Act, its commencement and the meaning of certain words and expressions used in the proposed Act.

Part 2 NSW Jobs Commission

Part 2 (**clauses 4–9**) constitutes the NSW Jobs Commission as a NSW Government agency and provides for its membership and functions. The Commission will consist of a NSW Jobs Commissioner appointed by the Governor and up to 5 other part-time members with relevant skills, knowledge or experience, who will be appointed by the

Premier. The Commission will be subject to the control and direction of the Premier. Its functions will include conducting inquiries into communities and industries that have been affected by job losses, making recommendations to enhance economic opportunities in these areas and identifying issues affecting jobs growth and retention. It will also evaluate regional development funding initiatives. The Commission will be able to delegate its functions to the Commissioner and its staff will be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

Part 3 Miscellaneous

Part 3 (**clauses 10–12**) excludes certain persons from personal liability, enables the Governor to make regulations for the purposes of the proposed Act and provides for a review by the Premier after 5 years of the effectiveness with which the Commission exercises its functions.

Schedule 1 contains provisions relating to the members and procedure of the Commission that are the standard provisions relating to statutory corporations.

Schedule 2.1 amends the *Public Finance and Audit Act 1983* to provide for financial auditing and annual reporting by the Commission.

Schedule 2.2 amends the *Public Sector Employment and Management Act 2002* to add the NSW Jobs Commissioner to the list of statutory officers who hold senior executive positions for the purposes of that Act.



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New South Wales

NSW Jobs Commission Bill 2012

No. , 2012

A Bill for

An Act to establish the NSW Jobs Commission to inquire into and advise on matters affecting jobs growth and retention; and for other purposes.

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>NSW Jobs Commission Act 2012</i> .	4
2 Commencement	5
This Act commences 3 months after the date of assent to this Act unless commenced sooner by proclamation.	6 7
3 Definitions	8
(1) In this Act:	9
Commission means the NSW Jobs Commission constituted by this Act.	10
Commissioner means the NSW Jobs Commissioner appointed under section 5.	11 12
exercise a function includes perform a duty.	13
function includes a power, authority or duty.	14
part-time member means a member of the Commission referred to in section 4 (3) (b).	15 16
(2) Notes included in this Act do not form part of this Act.	17

Part 2	NSW Jobs Commission	1
4	Constitution and membership of Commission	2
(1)	There is constituted by this Act a corporation with the corporate name of the NSW Jobs Commission.	3 4
(2)	The Commission is, for the purposes of any Act, a NSW Government agency.	5 6
(3)	The Commission is to consist of the following members:	7
(a)	the Commissioner,	8
(b)	not more than 5 other persons appointed by the Premier who together have relevant skills, knowledge or experience in regional business, agriculture, manufacturing, trade, investment, research, development, economic growth or other areas relevant to job creation.	9 10 11 12 13
	Note. Schedule 1 contains provisions relating to the membership and procedure of the Commission.	14 15
5	Appointment of Commissioner and acting Commissioner	16
(1)	The Governor may, on the recommendation of the Premier, appoint a NSW Jobs Commissioner.	17 18
(2)	The employment of the Commissioner is subject to Part 3.1 of the <i>Public Sector Employment and Management Act 2002</i> , but is not subject to Chapter 2 of that Act.	19 20 21
(3)	The Premier may, from time to time, appoint a person to act in the office of Commissioner during the illness or absence of the Commissioner (or during a vacancy in the office of Commissioner) and a person, while so acting, has all the functions of the Commissioner.	22 23 24 25
(4)	The Premier may, at any time, remove a person from the office of acting Commissioner.	26 27
(5)	The acting Commissioner is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Premier may from time to time determine.	28 29 30
6	Ministerial control	31
	The Commission is subject to the control and direction of the Premier, except in relation to the contents of any advice, report or recommendation given to the Premier or any other person or body.	32 33 34

7 Functions of Commission	1
(1) The Commission has the following functions:	2
(a) to conduct inquiries into communities and industries that have been affected by job losses and to make recommendations to the Government to enhance economic opportunities in these areas,	3 4 5
(b) to identify issues affecting jobs growth and retention and to make recommendations to the Premier regarding such issues,	6 7
(c) to evaluate regional development funding initiatives and to make recommendations as to where such funding should be distributed,	8 9
(d) to undertake regional impact studies on any proposal to remove or relocate public sector jobs, services or operations,	10 11
(e) to identify skills shortages in industry sectors and regional communities and to make recommendations to the Premier to address these shortages,	12 13 14
(f) to conduct inquiries into such matters as the Premier considers appropriate,	15 16
(g) to prepare an annual report for tabling in Parliament in relation to the results of its inquiries,	17 18
(h) such other functions as are conferred or imposed on it by or under any other Act or law.	19 20
(2) A report under subsection (1) (g) is to be included in the annual report of the Commission required under the <i>Annual Reports (Statutory Bodies) Act 1984</i> .	21 22 23
8 Delegation of Commission's functions	24
(1) The Commission may delegate to the Commissioner any of the functions of the Commission (other than this power of delegation).	25 26
(2) The Commissioner may sub-delegate to a member of staff of the Commission any function delegated by the Commission if the Commissioner is authorised in writing to do so by the Commission.	27 28 29
9 Staff of Commission	30
(1) The Commission may arrange for the use of the services of any staff (whether by way of secondment or otherwise) or of any facilities of any government agency or public or local authority to enable the Commission to exercise its functions.	31 32 33 34
(2) The Commission cannot employ any staff.	35
Note. Staff may be employed under Chapter 1A of the <i>Public Sector Employment and Management Act 2002</i> in the Government Service to enable the Commission to exercise its functions. Under section 4K of that Act a	36 37 38

reference in this Act to a member of staff of the Commission is a reference to staff so employed or to persons of whose services the Commission makes use.

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Part 3	Miscellaneous	1
10	Personal liability	2
	A matter or thing done or omitted to be done by:	3
	(a) the Commission, or	4
	(b) a member of the Commission, or	5
	(c) a person acting under the direction of the Commission,	6
	does not, if the matter or thing was done or omitted to be done in good	7
	faith for the purposes of executing this Act, subject the member or	8
	person so acting personally to any action, liability, claim or demand.	9
11	Regulations	10
	The Governor may make regulations, not inconsistent with this Act, for	11
	or with respect to any matter that by this Act is required or permitted to	12
	be prescribed or that is necessary or convenient to be prescribed for	13
	carrying out or giving effect to this Act.	14
12	Review of Commission's functions	15
(1)	The Premier is to conduct a review of the effectiveness with which the	16
	Commission exercises its functions.	17
(2)	The review is to be undertaken as soon as possible after the period of	18
	5 years from the commencement of this Act.	19
(3)	The Premier is to cause a report of the results of the review to be tabled	20
	in each House of Parliament within 12 months after the end of the period	21
	of 5 years.	22

Schedule 1	Members and procedure of Commission	1
Part 1	Preliminary	2
1	Definition	3
	In this Schedule:	4
	<i>member</i> means the Commissioner or a part-time member.	5
Part 2	Provisions relating to members	6
2	Terms of office of part-time members	7
	Subject to this Schedule, a part-time member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	8 9 10 11
3	Remuneration of part-time members	12
	A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Premier may from time to time determine in respect of the member.	13 14 15
4	Deputies of part-time members	16
(1)	The Premier may, from time to time, appoint a person to be the deputy of a part-time member and may revoke any such appointment.	17 18
(2)	In the absence of a part-time member, the member's deputy may, if available, act in the place of the member.	19 20
(3)	While acting in the place of a part-time member, a person has all the functions of the member and is taken to be a member.	21 22
(4)	For the purposes of this clause, a vacancy in the office of a part-time member is taken to be an absence of the part-time member.	23 24
5	Vacancy in office of part-time member	25
(1)	The office of a part-time member becomes vacant if the member:	26
(a)	dies, or	27
(b)	completes a term of office and is not re-appointed, or	28
(c)	resigns the office by instrument in writing addressed to the Premier, or	29 30
(d)	is removed from office by the Premier under this clause, or	31

(e)	is absent from 3 consecutive meetings of the Commission of which reasonable notice has been given to the member personally or by post, except on leave granted by the Premier or unless the member is excused by the Premier for having been absent from those meetings, or	1 2 3 4 5
(f)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	6 7 8 9
(g)	becomes a mentally incapacitated person, or	10
(h)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	11 12 13 14 15
(2)	The Premier may remove a part-time member from office at any time.	16
6	Filling of vacancy in office of part-time member	17
	If the office of any part-time member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	18 19
7	Disclosure of pecuniary interests	20
(1)	If:	21
(a)	a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Commission, and	22 23 24
(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	25 26 27
	the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Commission.	28 29 30
(2)	A disclosure by a member at a meeting of the Commission that the member:	31 32
(a)	is a member, or is in the employment, of a specified company or other body, or	33 34
(b)	is a partner, or is in the employment, of a specified person, or	35
(c)	has some other specified interest relating to a specified company or other body or to a specified person,	36 37
	is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise	38 39

after the date of the disclosure and which is required to be disclosed under subclause (1).	1 2
(3) Particulars of any disclosure made under this clause must be recorded by the Commission in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Commission.	3 4 5 6
(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Premier or the Commission otherwise determines:	7 8 9
(a) be present during any deliberation of the Commission with respect to the matter, or	10 11
(b) take part in any decision of the Commission with respect to the matter.	12 13
(5) For the purposes of the making of a determination by the Commission under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:	14 15 16
(a) be present during any deliberation of the Commission for the purpose of making the determination, or	17 18
(b) take part in the making by the Commission of the determination.	19
(6) A contravention of this clause does not invalidate any decision of the Commission.	20 21
8 Effect of certain other Acts	22
(1) The <i>Public Sector Employment and Management Act 2002</i> does not apply to or in respect of the appointment of a part-time member and a part-time member, in the member's capacity as such a member, is not subject to the provisions of that Act.	23 24 25 26
(2) If by or under any Act provision is made:	27
(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	28 29
(b) prohibiting the person from engaging in employment outside the duties of that office,	30 31
the provision does not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a member.	32 33 34 35

Part 3	Procedure	1
9	General procedure	2
	The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Commission.	3 4 5
10	Quorum	6
	The quorum for a meeting of the Commission is a majority of its members for the time being.	7 8
11	Presiding member	9
(1)	The Commissioner (or, in the absence of the Commissioner, a person elected by the members of the Commission who are present at a meeting of the Commission) is to preside at a meeting of the Commission.	10 11 12
(2)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	13 14
12	Voting	15
	A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present is the decision of the Commission.	16 17 18
13	Transaction of business outside meetings or by telephone	19
(1)	The Commission may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Commission for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Commission.	20 21 22 23
(2)	The Commission may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	24 25 26 27 28
(3)	For the purposes of:	29
(a)	the approval of a resolution under subclause (1), or	30
(b)	a meeting held in accordance with subclause (2),	31
	the Commissioner and each member have the same voting rights as they have at an ordinary meeting of the Commission.	32 33
(4)	A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the Commission.	34 35

(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.	1 2 3
14 First meeting	4
The Premier may call the first meeting of the Commission in such manner as the Premier thinks fit.	5 6

Schedule 2	Amendment of Acts	1
2.1	Public Finance and Audit Act 1983 No 152	2
	Schedule 2 Statutory bodies	3
	Insert in alphabetical order:	4
	NSW Jobs Commission	5
2.2	Public Sector Employment and Management Act 2002 No 43	6
	Schedule 2 Executive positions (other than non-statutory SES positions)	7
	Insert at the end of Part 3:	8
	NSW Jobs Commissioner	9