



New South Wales

Election Funding Amendment Bill 2006

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Election Funding Act 1981* in relation to:

- (a) payments of election campaign expenditure funding from the Constituency Fund established under that Act to certain Legislative Assembly candidates for election, and
- (b) increasing the powers of the Election Funding Authority to enable it to investigate certain failures to disclose electoral expenditure as required by that Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Election Funding Act 1981* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

The *Election Funding Act 1981* enables candidates for election to the Legislative Assembly, if eligible, to claim payment for expenditure incurred for election campaign purposes from the Constituency Fund established under that Act. Claims may only be made for such expenditure when it is incurred by the candidate or a person lawfully appointed by the candidate as his or her agent.

Schedule 1 [1] inserts proposed section 74 (6) and (7) into the *Election Funding Act 1981* to make it clear that an endorsed candidate of a registered political party at a Legislative Assembly election may claim as electoral expenditure amounts incurred by the political party for the benefit of the candidate, or for the benefit of the candidate and other candidates endorsed by the party, at the election (such as advertising or printing costs) and invoiced by that party to the candidate for payment.

Part 6 of the *Election Funding Act 1981* requires certain political parties, groups, candidates and other persons who incur electoral expenditure to disclose that expenditure to the Election Funding Authority. To enforce compliance with that Act, an authorised member of staff for the Election Funding Authority has, under section 110 of that Act, certain powers of inspection, examination and inquiry in relation to such parties, groups and candidates and agents for such parties, groups and candidates. However, neither the Election Funding Authority nor those authorised staff members have similar powers in relation to other persons.

Schedule 1 [2] inserts proposed section 110A into the *Election Funding Act 1981* to provide that if the Election Funding Authority, or an authorised member of staff of the Election Funding Authority, reasonably suspects that a person has failed to lodge a declaration relating to electoral expenditure as required by section 85A of that Act (Obligation of persons (other than parties etc) to make disclosure), the Authority, or the authorised staff member, may require any other person whom the Authority, or the authorised staff member, reasonably suspects may have information regarding that electoral expenditure to give certain information and produce documents in relation to that failed disclosure or the electoral expenditure. It will be an offence, carrying a maximum penalty of 100 penalty units (currently \$11,000) to fail, without reasonable excuse, to comply with such a requirement.

First print



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No. , 2006

A Bill for

An Act to amend the *Election Funding Act 1981* to make further provision with respect to election funding and the disclosure of electoral expenditure.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Election Funding Amendment Act 2006</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5
3 Amendment of Election Funding Act 1981 No 78	6
The <i>Election Funding Act 1981</i> is amended as set out in Schedule 1.	7
4 Repeal of Act	8
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	9 10
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	11 12

Schedule 1 Amendments

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	(Section 3)	2
[1]	Section 74 Claims for, and approvals of, payments	3
	Insert after section 74 (5):	4
	(6) For the purposes of subsection (2) (b), an amount of expenditure incurred for election campaign purposes by a candidate for election to the Assembly includes, if the candidate is the endorsed candidate of a registered party, any amount of electoral expenditure that is:	5
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	(a) incurred by that party for the benefit of the candidate or for the benefit of the candidate and other candidates endorsed by the party at the election, and	10
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	(b) invoiced by that party to the candidate for payment.	13
	(7) For the purposes of subsection (6), a payment is to be made under this Part even if:	14
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	(a) the electoral expenditure incurred by the registered party was not incurred as an agent for the candidate, and	16
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	(b) the candidate had no legal liability to pay to the party the amount of electoral expenditure invoiced.	18
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[2]	Section 110A	20
	Insert after section 110:	21
	110A Power to demand information regarding failures to disclose	22
	(1) If the Authority, or a member of staff of the Authority authorised by it for the purposes of this section, reasonably suspects that a person has failed to lodge a declaration relating to electoral expenditure as required by section 85A, the Authority, or the authorised staff member, may, by notice in writing, require any other person whom the Authority, or the authorised staff member, reasonably suspects may have information regarding that electoral expenditure:	23
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	(a) to state the name and address of the person who it is suspected failed to lodge the declaration, or	31
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	(b) to furnish such other information in connection with the electoral expenditure as the Authority, or the authorised staff member, may reasonably require, or	33
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Schedule 1 Amendments

- (c) to produce to the Authority, or the authorised staff member, at the time and place specified in that notice, any document that relates to the electoral expenditure and permit the Authority, or the authorised staff member, to inspect, and take copies of or extracts from, the document. 1
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- (2) A person must not, without reasonable excuse, fail to comply with a requirement of the Authority, or an authorised staff member, made under this section. 6
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Maximum penalty: 100 penalty units. 9