

# **FIRE SERVICE LEGISLATION AMENDMENT BILL 1994**

## **EXPLANATORY NOTE**

**(Circulated by authority of the Deputy Premier, Minister  
for Emergency Services and Minister for Rural  
Communities and Consumer Affairs)**

### **OBJECTIVE**

The objective of the legislation is to amend the *Fire Service Act 1990* to allow local governments to make and levy separate or special rates or charges for the purpose of assisting the funding of rural fire brigades, together with related amendments to the *Local Government Act 1993* and the *Acts Interpretation Act 1954*.

The amendment to the *Local Government Act 1993* removes uncertainty by clarifying the power of local governments to make and levy certain rates and charges and apply the revenue to a service not provided by the local government.

### **REASONS FOR THE BILL**

When the *Local Government Act 1993* was drafted it was intended that a local government's power to levy separate or special rates or charges would include the power to contribute the proceeds of the rate or charge to a local rural fire brigade(s).

The Solicitor-General has expressed a view that the *Local Government Act 1993* may not be interpreted as permitting a local government to levy a separate or special rate or charge to fund the activities of a rural fire brigade on the basis that a local government can only raise these types of rates or charges for services actually supplied by the local government.

The proposed Bill will clarify these powers.

**ESTIMATED COST FOR GOVERNMENT**

Nil.

**CONSULTATION**

Legal advice has been sought from the Crown Solicitor and the Solicitor General. They are of the opinion that the *Local Government Act 1993* may not give local governments the power to levy rates or charges for services not supplied by them, resulting in some uncertainty over whether local governments can levy a rate or charge for funding rural fire brigades.

The Department of Housing, Local Government and Planning supports local governments having the proposed power and indicated that the *Fire Service Act 1990* may be the appropriate legislative vehicle to effect the change.

Local governments indicate strong support for having a discretionary ability to make and levy a rural fire brigade rate or charge. Some local governments have debated the issue and chosen not to impose a levy for a variety of reasons.

**NOTES ON CLAUSES****PART 1—PRELIMINARY**

*Clause 1* sets out the short title of the Bill.

*Clause 2* provides that the amendments to the *Fire Service Act 1990* and the amendments to the *Local Government Act 1993* are taken to have commenced on 26 March 1994.

**PART 2—AMENDMENT OF FIRE SERVICE ACT 1990**

*Clause 3* provides that Part 2 of the *Fire Service Legislation Amendment*

*Act 1994* amends the *Fire Service Act 1990*.

*Clause 4* inserts a new Division heading entitled '**Interpretation**' before section 105.

*Clause 5* is an omission of the current section heading '**Interpretation of Part**' and insertion of the heading '**Definitions**': an amendment to ensure that the section heading is in accordance with current legislative drafting practice. It is an Office of the Parliamentary Counsel initiative.

*Clause 6* provides for the insertion of a new Division heading dealing with funding for urban fire brigades.

*Clause 7* provides for the insertion of a new Division dealing with funding for rural fire brigades and allows each local government to make and levy certain rates or charges and contribute the amounts raised to rural fire brigades operating in its local government area. The rates or charges include a special rate or charge under section 567 of the *Local Government Act 1993* and a separate rate or charge under section 568 of the Act .

## **PART 3—AMENDMENT OF LOCAL GOVERNMENT ACT 1993**

*Clause 8* provides that Part 3 of the *Fire Service Legislation Amendment Act 1994* amends the *Local Government Act 1993*.

*Clause 9* amends section 567 (**Special rates and charges**) to remove any doubt, as identified by the Solicitor-General, that a local government may make and levy a special rate or charge for a service, facility or activity whether or not supplied by the local government itself.

*Clause 10* amends section 568 (**Separate rates and charges**) to remove any doubt, as identified by the Solicitor-General, that a local government may make and levy a separate rate or charge for a service, facility or activity whether or not supplied by the local government itself.

*Clause 11* amends section 569 (**Utility charges**) to remove any doubt that a local government may make and levy a utility charge for a service whether or not the service is supplied by the local government itself.

## **PART 4—AMENDMENT OF ACTS INTERPRETATION ACT 1954**

*Clause 12* provides that Part 4 of the *Fire Service Legislation Amendment Act 1994* amends the *Acts Interpretation Act 1954*.

*Clause 13* enhances the purposive interpretation approach set out in section 14A of the *Acts Interpretation Act 1954*.

On 1 July 1991, a number of amendments of the *Acts Interpretation Act 1954* were made to facilitate the Office of the Parliamentary Counsel's policy of simplifying the Queensland legislative drafting style. Section 14A was one of these amendments.

Existing section 14A(1) endorses a purposive approach to interpretation where the interpretation that would best promote the purpose of an Act is preferred to any other interpretation. By existing section 14A(2), the purposive interpretation applies even if the Act's purpose is not expressly stated.

The proposed amendment of section 14A is designed to enhance purposive interpretation.

Proposed section 14A(2) ensures that purposive interpretation is enhanced without creating or extending criminal liability. South Australia has an equivalent safeguard in its purposive interpretation provision—*Acts Interpretation Act 1915 (SA)*, section 22. The proposed subsection also remakes existing section 14A(2).

Proposed section 14A(3) is a declaration intended to remove any doubt about uncertainties in interpretation similar to those that have resulted in the proposed amendment of the *Local Government Act 1993* by Part 3 of this Bill. If legislation is made after 30 June 1991, a purposive interpretation applies despite any presumption or rule of interpretation.