



Queensland

Local Government and Other Legislation Amendment Bill 2006



Queensland

Local Government and Other Legislation Amendment Bill 2006

Contents

		Page
Part 1	Preliminary	
1	Short title	8
Part 2	Amendment of Local Government Act 1993	
2	Act amended in pt 2	8
3	Amendment of s 9 (Act applies only so far as expressly provided)	8
4	Insertion of new ch 3, pt 1, div 8A	8
	Division 8A Reviewable local government matters from SSS reviews	
	Subdivision 1 Preliminary	
	151A Definitions for div 8A.	9
	Subdivision 2 Referral and certification	
	151B Referral of SSS review recommendation to commissioner	10
	151C Certification by commissioner	10
	Subdivision 3 Certified minor recommendation	
	151D Dealing with minor recommendation	11
	Subdivision 4 Certified significant recommendation	
	151E Application of sdiv 4	12
	151F Requirement for referendum	12
	151G Advice to Minister and local governments	12
	Subdivision 5 Implementation of significant recommendation	
	151H Referendum question approved	13
	151I Referendum question not approved	13
	Subdivision 6 Implementation	
	151J Implementation of reviewable local government matter	14
5	Insertion of new ch 3, pt 2, div 5.	14

*Local Government and Other Legislation Amendment
Bill 2006*

	Division 5	Financial controllers	
	188A	Procedures before appointment of financial controller	14
	188B	Appointment of financial controller	15
	188C	Functions of financial controller	16
	188D	Power of financial controller to advise chief executive about resolution or order	16
	188E	Countersigning cheques and authorising electronic funds transfers	17
	188F	Local government to cooperate with financial controller	17
	188G	Financial controller's employment conditions	17
	188H	Recovery of amounts from local government	18
6		Amendment of s 222 (Disqualification and vacation of office for certain offences)	18
7		Amendment of s 230 (Limitation on councillors' roles)	19
8		Amendment of s 242 (Requirements of councillors before acting in office)	19
9		Insertion of new s 246A	19
	246A	Recording of conflict of interest	20
10		Amendment of s 248 (Access to registers)	20
11		Amendment of s 250 (Improper use of information by councillors)	21
12		Amendment of s 304 (Deposit to accompany nomination)	22
13		Amendment of s 308 (Termination of candidature before noon on nomination day)	22
14		Amendment of s 309 (Death of candidate)	22
15		Amendment of s 313 (Procedure on death of candidate when poll to be conducted)	22
16		Amendment of s 314 (Disposal of deposits generally)	23
17		Amendment of s 316 (Extension of times)	23
18		Insertion of new s 316A	23
	316A	Special provision about refunding deposits	23
19		Amendment of s 329 (Correction of errors etc.)	23
20		Replacement of ss 383 and 384	23
	383	False or misleading information	24
21		Amendment of s 385 (Bribery)	24
22		Amendment of s 386 (Providing money for illegal payments) . . .	24
23		Amendment of s 389 (Forging or uttering electoral papers)	25
24		Amendment of s 392 (Responsibility for election matter)	25

*Local Government and Other Legislation Amendment
Bill 2006*

25	Insertion of new s 392B	25
	392B Lodging of how-to-vote cards	25
26	Amendment of s 393 (Headline to electoral advertisements).	27
27	Amendment of s 394 (Misleading voters)	28
28	Amendment of s 396 (Leave to vote)	28
29	Amendment of s 397 (Canvassing in or near polling booths).	28
30	Amendment of s 399 (Influencing voting)	29
31	Amendment of s 401 (Voting if not entitled)	29
32	Amendment of ch 5, pt 8, hdg	29
33	Amendment of s 414 (Definitions for pt 8)	29
34	Insertion of new ss 417A	30
	417A Adjustment of prescribed amount in relation to disclosure period	31
35	Amendment of s 423A (Disclosure period for s 427A)	31
36	Insertion of new s 425	31
	425 Disclosure period for s 430A	31
37	Amendment of ch 5, pt 8, div 3, hdg (Disclosure of gifts).	32
38	Amendment of s 426 (Definitions for div 3)	32
39	Amendment of s 427 (Gifts to candidates)	33
40	Amendment of s 427A (Gifts to groups of candidates).	33
41	Amendment of s 428 (Certain gifts not to be received)	33
42	Insertion of new ss 428A to 428C	35
	428A Valuation of fundraising activity gifts	35
	428B Loans to candidates or groups of candidates.	35
	428C Certain loans not to be received.	36
43	Amendment of s 429 (Chief executive officer to give reminder notice to candidates)	38
44	Amendment of s 430 (Gifts for third party expenditure for political purposes)	38
45	Insertion of new s 430A	39
	430A Third party expenditure for political purposes	39
46	Insertion of new ch 5, pt 8, div 3, sdiv 2A.	40
	Subdivision 2A Disclosure by donors	
	431A Donations to candidates.	40
47	Insertion of new ch 5, pt 8, div 3, sdiv 4	42
	Subdivision 4 Operation of accounts	

*Local Government and Other Legislation Amendment
Bill 2006*

	432A	Requirement for candidate to operate dedicated account	42
	432B	Requirement for group of candidates to operate dedicated account	42
48		Insertion of new ch 5, pt 8, div 4A	43
	Division 4A	Recording of group's membership and group's agent	
	435A	Definitions for div 4A.	43
	435B	Offence to advertise or fundraise for group if nomination requirements not complied with	44
	435C	Record of group membership requirement.	45
	435D	Group agent nomination requirement.	46
	435E	Register of group agents	46
49		Amendment of s 436 (Offences about returns)	47
50		Insertion of new ch 5, pt 9	47
	Part 9	Miscellaneous election matters	
	Division 1	Preliminary	
	441A	Application of pt 9 to Brisbane City Council	48
	Division 2	Code of conduct for candidates	
	441B	Code of conduct	48
	Division 3	Caretaker period arrangements	
	441C	Definitions for div 3	48
	441D	Prohibition on major policy decision in caretaker period	49
	441E	Invalidity of major policy decision in caretaker period without approval	50
	441F	Prohibition on election material in caretaker period	50
51		Insertion of new s 461A	50
	461A	Recording of reasons for particular decisions	50
52		Amendment of s 1077 (Indictable offences and summary offences)	52
53		Insertion of new s 1077A	52
	1077A	Designated election offences and application of Criminal Code.	52
54		Insertion of new ch 15, pt 5, div 11.	53
	Division 11	Consideration of errors or omissions in registers of interests and election disclosure returns	
	Subdivision 1	Preliminary	

*Local Government and Other Legislation Amendment
Bill 2006*

	1105A Definitions for div 11	53
	Subdivision 2 Investigating officers	
	1105B Appointment	54
	1105C Investigating officer's powers	54
	1105D Investigating officer's identity card	55
	1105E Production or display of identity card	56
	1105F When investigating officer ceases to hold office.	56
	1105G Resignation	56
	1105H Return of identity card	57
	1105I Impersonation of an investigating officer	57
	Subdivision 3 Investigations	
	1105J Making of inquiries for local government	57
	1105K Making of inquiries for department	57
	1105L Power to require information or document for local government investigation	58
	1105M Power to require information or document for department investigation	59
	1105N Referral to department	60
	1105O Access to information in register	61
	Subdivision 4 Chief executive officer's authority under div 11	
	1105P Chief executive officer not subject to local government	61
55	Amendment of sch 2 (Dictionary)	61
Part 3	Amendment of City of Brisbane Act 1924	
56	Act amended in pt 3	62
57	Amendment of s 3A (Application of Local Government Act)	62
58	Insertion of new s 39BA	62
	39BA Recording of reasons for particular decisions	62
Part 4	Amendment of Electoral Act 1992	
59	Act amended in pt 4	64
60	Amendment of s 162 (Headline electoral advertisements)	64
61	Amendment of s 165 (Leave to vote)	64
62	Amendment of s 166 (Canvassing etc. in or near polling places)	64
63	Amendment of s 167 (Interrupting voting etc.)	64
64	Amendment of schedule (Election Funding and financial disclosure based on part XX of the Commonwealth Electoral Act)	65

*Local Government and Other Legislation Amendment
Bill 2006*

Part 5	Amendment of Local Government (Community Government Areas) Act 2004	
65	Act amended in pt 5	65
66	Amendment of s 11 (Provisions of Local Government Act 1993 that apply)	65

2006

A Bill

for

An Act to amend the *Local Government Act 1993*, and for other purposes

*Local Government and Other Legislation Amendment
Bill 2006*

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3
 This Act may be cited as the *Local Government and Other
 Legislation Amendment Act 2006*. 4
 5

**Part 2 Amendment of Local
 Government Act 1993** 6
 7

Clause 2 Act amended in pt 2 8
 This part amends the *Local Government Act 1993*. 9

**Clause 3 Amendment of s 9 (Act applies only so far as expressly
 provided)** 10
 11
 Section 9(2), ‘chapter 5, part 8’— 12
omit, insert— 13
 ‘chapter 5, parts 8 and 9’. 14

Clause 4 Insertion of new ch 3, pt 1, div 8A 15
 Chapter 3, part 1, after section 151— 16
insert— 17

*Local Government and Other Legislation Amendment
Bill 2006*

‘Division 8A	Reviewable local government matters from SSS reviews	1 2
‘Subdivision 1	Preliminary	3
‘151A Definitions for div 8A		4
	‘In this division—	5
	<i>minor matter</i> means a relevant reviewable local government matter the implementation of which has been agreed to in writing by—	6 7 8
	(a) all local governments whose areas, or parts of whose areas, are the subject of the matter; and	9 10
	(b) all owners of land that is the subject of the matter.	11
	<i>minor recommendation</i> means an SSS review recommendation, if it is for the implementation of a minor matter.	12 13 14
	<i>relevant reviewable local government matter</i> means a reviewable local government matter—	15 16
	(a) mentioned in section 64(1)(a), (c), (f) or (l); and	17
	(b) that involves 2 or more local governments.	18
	<i>relevant SSS review</i> , in relation to an SSS review recommendation, means the SSS review out of which the SSS review recommendation arose.	19 20 21
	<i>significant recommendation</i> means an SSS review recommendation, other than a minor recommendation.	22 23
	<i>SSS review</i> means a review that—	24
	(a) examines governance and service delivery arrangements in relation to 2 or more local governments; and	25 26
	(b) is carried out under a review framework—	27
	(i) put in place by the Local Government Association, local governments and the department; and	28 29

*Local Government and Other Legislation Amendment
Bill 2006*

- (ii) generally referred to using the expression ‘Size, Shape and Sustainability’. 1
2

SSS review recommendation means a recommendation, 3
arising out of an SSS review, for the implementation of a 4
relevant reviewable local government matter. 5

‘Subdivision 2 Referral and certification’ 6

**‘151B Referral of SSS review recommendation to commissioner’ 7
8**

- ‘(1) A local government may ask the Minister to refer an SSS 9
review recommendation to the commissioner. 10
- ‘(2) Alternatively, the Minister may decide, without being asked 11
by a local government, to refer an SSS review 12
recommendation to the commissioner. 13
- ‘(3) The Minister may require a request under subsection (1) to be 14
made in an approved form. 15
- ‘(4) A request under subsection (1) may be made jointly by some 16
or all of the local governments that are the subject of the 17
recommendation. 18
- ‘(5) In deciding under subsection (1) or (2) whether to refer the 19
SSS review recommendation to the commissioner, the 20
Minister may require the local governments that are the 21
subject of the recommendation to give the Minister all 22
information about the conduct of the relevant SSS review the 23
Minister reasonably requires. 24

‘151C Certification by commissioner’ 25

- ‘(1) If the Minister refers the SSS review recommendation to the 26
commissioner, the commissioner must decide whether or not 27
to certify the consultation for the relevant SSS review. 28
- ‘(2) For subsection (1), the commissioner is only required to 29
decide whether the nature and extent of the consultation 30
forming part of the relevant SSS review was, in substance, at 31

*Local Government and Other Legislation Amendment
Bill 2006*

least equivalent to the nature and extent of consultation required of a commission—	1 2
(a) under section 88, in relation to the reference of a reviewable local government matter; and	3 4
(b) under section 90, in relation to a proposal to determine that a reviewable local government matter be implemented.	5 6 7
‘(3) In deciding whether or not to certify the consultation, the commissioner may require the local governments the subject of the recommendation to give the commissioner all information about the conduct of the relevant SSS review the commissioner reasonably requires.	8 9 10 11 12
‘(4) The commissioner must advise the Minister of the commissioner’s decision under this section as soon as practicable after the decision is made.	13 14 15
‘Subdivision 3 Certified minor recommendation	16
‘151D Dealing with minor recommendation	17
‘(1) This section applies if—	18
(a) the SSS review recommendation is a minor recommendation; and	19 20
(b) the commissioner certifies the consultation for the relevant SSS review.	21 22
‘(2) The Governor in Council must implement the reviewable local government matter the subject of the recommendation as soon as practicable after the Minister receives the recommendation under subsection (1).	23 24 25 26

*Local Government and Other Legislation Amendment
Bill 2006*

‘Subdivision 4	Certified significant recommendation	1 2
‘151E	Application of sdiv 4	3
	‘This subdivision applies if—	4
	(a) the SSS review recommendation is a significant recommendation; and	5 6
	(b) the commissioner certifies the consultation for the relevant SSS review.	7 8
‘151F	Requirement for referendum	9
	‘(1) A referendum must be held in relation to the SSS review recommendation.	10 11
	‘(2) Division 7 applies, with any necessary changes, to the referendum as if the referendum in relation to the SSS review recommendation were a referendum to be held in relation to a commission’s proposed determination of a reviewable local government matter.	12 13 14 15 16
	‘(3) Without limiting subsection (2), the necessary changes mentioned in subsection (2) include any necessary changes to words defined in schedule 2.	17 18 19
‘151G	Advice to Minister and local governments	20
	‘(1) As soon as practicable after the final result of the referendum is known, the commissioner must give the Minister, and all local governments the subject of the SSS review recommendation, a report that includes the details of the result of the referendum that the Minister reasonably requires.	21 22 23 24 25
	‘(2) The Minister may require a report under subsection (1) to be given in an approved form.	26 27

*Local Government and Other Legislation Amendment
Bill 2006*

‘Subdivision 5	Implementation of significant recommendation	1 2
‘151H	Referendum question approved	3
‘(1)	This section applies if the report of the commissioner under subdivision 4 indicates that the referendum question has been approved by the affected area for the reviewable local government matter that is the subject of the SSS review recommendation.	4 5 6 7 8
‘(2)	The Governor in Council must implement the reviewable local government matter the subject of the recommendation as soon as practicable after the Minister receives the commissioner’s report.	9 10 11 12
‘151I	Referendum question not approved	13
‘(1)	This section applies if the report of the commissioner under subdivision 4 indicates that the referendum question has not been approved by the affected area for the reviewable local government matter that is the subject of the SSS review recommendation.	14 15 16 17 18
‘(2)	The Minister may, within 7 sitting days after the Minister receives the report, table in the Legislative Assembly—	19 20
(a)	the commissioner’s report; and	21
(b)	a copy of the material that the Minister considered in deciding whether to refer the SSS review recommendation to the commissioner for certification of the consultation for the relevant SSS review.	22 23 24 25
‘(3)	Within 7 sitting days after the Minister tables the commissioner’s report and other material under subsection (2), the Legislative Assembly may resolve that the Governor in Council be asked to make a regulation implementing the reviewable local government matter.	26 27 28 29 30
‘(4)	If the Legislative Assembly resolves that the Governor in Council be asked to implement the matter, the Governor in Council must implement the matter as soon as practicable after the resolution is passed.	31 32 33 34

*Local Government and Other Legislation Amendment
Bill 2006*

‘Subdivision 6	Implementation	1
‘151J	Implementation of reviewable local government matter	2
‘(1)	This section applies if the Governor in Council is to implement a reviewable local government matter under this division.	3 4 5
‘(2)	Division 10 applies to the implementation.	6
‘(3)	However, for applying section 158(1), the reference to the commissioner’s and the commission’s compliance with this Act is taken to be a reference to the commissioner’s and the Minister’s compliance with this division.	7 8 9 10
‘(4)	If a regulation is made to implement the matter and the regulation is to commence on a later day fixed in it, for this division, the matter must not be taken not to have been implemented as soon as practicable only because of the later commencement.	11 12 13 14 15
	<i>Examples of subsection (4)—</i>	16
1	Because of the holding of quadrennial elections under this Act, or fresh elections under the regulation, the regulation may commence after its notification.	17 18 19
2	Because of financial implications, the regulation may commence at the start of a financial year.’	20 21
Clause 5	Insertion of new ch 3, pt 2, div 5	22
	Chapter 3, part 2—	23
	<i>insert—</i>	24
‘Division 5	Financial controllers	25
‘188A	Procedures before appointment of financial controller	26
‘(1)	Before the Governor in Council or Minister exercises a power under section 188B in relation to a local government, the Minister must give a written notice of the proposed exercise of the power to the local government.	27 28 29 30
‘(2)	However, the notice need not be given if—	31

*Local Government and Other Legislation Amendment
Bill 2006*

(a) the local government has asked for the power to be exercised; or	1 2
(b) the Minister reasonably considers giving the notice—	3
(i) is likely to defeat the purpose of the proposed exercise of the power; or	4 5
(ii) would serve no useful purpose.	6
‘(3) The notice must state—	7
(a) the reasons for the proposed exercise of the power; and	8
(b) a period within which the local government may make submissions to the Minister about the proposed exercise of the power.	9 10 11
‘(4) The reasons stated in the notice are the only reasons that can be relied on in support of the exercise of the power.	12 13
‘(5) The Minister must have regard to all submissions made by the local government within the stated period.	14 15
‘(6) The power may be exercised without further notice to the local government if—	16 17
(a) the proposed exercise of the power is to proceed despite the local government’s submissions; or	18 19
(b) no submissions of the local government are received by the Minister within the stated period.	20 21
‘188B Appointment of financial controller	22
‘(1) The Governor in Council may, by regulation, appoint a financial controller for a local government.	23 24
‘(2) The Minister must not recommend the Governor in Council act under subsection (1) unless the Minister is satisfied on reasonable grounds that the local government—	25 26 27
(a) has not applied financial management policies and principles required by the Local Government Finance Standards for funds under its control; or	28 29 30
(b) has acted, or is about to act, in a way that—	31

*Local Government and Other Legislation Amendment
Bill 2006*

(i) caused, or may cause, a significant deterioration in its financial viability; or	1 2
(ii) will, or may, cause it to become insolvent.	3
‘188C Functions of financial controller	4
‘(1) A financial controller appointed for a local government is responsible for ensuring the local government adheres to its budget.	5 6 7
‘(2) Also, the financial controller—	8
(a) may give advice about financial management to the local government, including, for example, advice about the preparation of a plan to address any financial difficulties it may be experiencing; and	9 10 11 12
(b) may undertake other administrative duties requested by the local government; and	13 14
(c) must undertake other administrative duties directed by the Minister.	15 16
‘188D Power of financial controller to advise chief executive about resolution or order	17 18
‘(1) This section applies if a financial controller for a local government reasonably believes a resolution of the local government, or an order of the local government giving effect to a resolution of the local government—	19 20 21 22
(a) will result in unlawful expenditure by the local government; or	23 24
(b) will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given; or	25 26 27
(c) will cause the local government to become insolvent.	28
‘(2) The financial controller must advise the chief executive of the department of the resolution or order.	29 30

*Local Government and Other Legislation Amendment
Bill 2006*

‘(3)	The financial controller’s advice to the chief executive under subsection (2) must include reasons for the financial controller’s belief under subsection (1).	1 2 3
‘(4)	Neither the State nor the financial controller is legally liable for any loss or expense incurred by a person because of the advice given under subsection (2).	4 5 6
‘188E	Countersigning cheques and authorising electronic funds transfers	7 8
‘(1)	If a financial controller is appointed for a local government, a payment may be made from an account with a financial institution kept by the local government only by a cheque countersigned, or an electronic funds transfer authorised, by the financial controller.	9 10 11 12 13
‘(2)	However, the financial controller may refuse to countersign the cheque, or authorise the electronic funds transfer, only if the financial controller reasonably believes—	14 15 16
	(a) the payment will result in unlawful expenditure by the local government; or	17 18
	(b) the payment will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given; or	19 20 21
	(c) the payment will cause the local government to become insolvent.	22 23
‘188F	Local government to cooperate with financial controller	24 25
	‘If a financial controller is appointed for a local government, the local government must cooperate with the financial controller in relation to the performance of the financial controller’s functions under section 188C.	26 27 28 29
‘188G	Financial controller’s employment conditions	30
	‘A financial controller appointed for a local government is to be employed under the <i>Public Service Act 1996</i> .	31 32

*Local Government and Other Legislation Amendment
Bill 2006*

'188H Recovery of amounts from local government	1
‘(1) The Governor in Council may direct a local government for which a financial controller is appointed to pay the Minister a stated amount for the costs and expenses of the financial controller.	2 3 4 5
‘(2) The stated amount may include salary and allowances payable to the financial controller as a public service officer.	6 7
‘(3) The direction may state a time for payment.	8
‘(4) The stated amount is a debt payable to the State.’	9
Clause 6 Amendment of s 222 (Disqualification and vacation of office for certain offences)	10 11
(1) Section 222(1)(b), ‘384’—	12
<i>omit, insert—</i>	13
‘383’.	14
(2) Section 222(1)(c), after ‘247’—	15
<i>insert—</i>	16
‘, 250’.	17
(3) Section 222(3), from ‘satisfied that’—	18
<i>omit, insert—</i>	19
‘satisfied that—	20
(a) for a person who is not a local government councillor—there are special circumstances why the person should not be disqualified under the subsection from becoming a local government councillor; or	21 22 23 24
(b) for a person who is a local government councillor—there are special circumstances why—	25 26
(i) the person should not be disqualified under the subsection from again becoming a local government councillor; and	27 28 29
(ii) the person’s office as a local government councillor should not be vacated.’	30 31

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 7	Amendment of s 230 (Limitation on councillors' roles)	1
	Section 230—	2
	<i>insert</i> —	3
	‘(3) Subsection (4) applies if a councillor directs, purports to direct or attempts to direct, an employee of the local government, or another person otherwise engaged to provide services to the local government, about the way the employee or other person is to perform a relevant duty.	4 5 6 7 8
	‘(4) The councillor commits an offence.	9
	Maximum penalty—85 penalty units.	10
	‘(5) In this section—	11
	<i>relevant duty</i> means the duty of giving the local government a recommendation or advice about—	12 13
	(a) the grant of a licence, permit or approval, however named, under an Act or under a local law of the local government; or	14 15 16
	(b) the grant of a concession, rebate or waiver in relation to an amount owed to the local government; or	17 18
	(c) the local government entering into a contract under chapter 6, part 3; or	19 20
	(d) disposing of land or a non-current asset; or	21
	(e) allocating any of the local government’s resources for carrying out local government programs or projects.	22 23
	<i>resources</i> , of the local government, means staff, funds, plant and equipment of the local government.’.	24 25
 Clause 8	 Amendment of s 242 (Requirements of councillors before acting in office)	 26 27
	Section 242(3A)—	28
	<i>omit</i> .	29
 Clause 9	 Insertion of new s 246A	 30
	After section 246—	31

*Local Government and Other Legislation Amendment
Bill 2006*

insert—

‘246A Recording of conflict of interest

- ‘(1) This section applies if a councillor of a local government has a conflict of interest, or could reasonably be taken to have a conflict of interest, in an issue being considered or to be considered at a meeting of the local government or any of its committees.
- ‘(2) For subsection (1), a councillor has a conflict of interest in an issue if there is a conflict between the councillor’s private interest and the honest performance of the councillor’s role of serving the public interest.
- ‘(3) The councillor must declare the conflict of interest to the meeting.
- ‘(4) The local government must ensure the declaration is recorded in the minutes for the meeting.
- ‘(5) The record must include—
- (a) the nature of the conflict of interest as described by the councillor; and
 - (b) how the councillor dealt with the conflict of interest; and
 - (c) if the councillor voted on the issue—how the councillor voted.
- ‘(6) In this section—
- conflict of interest*, for a councillor in an issue, does not include a conflict of interest arising out of a material personal interest the councillor has in the issue.
- private interest* includes both pecuniary and non-pecuniary interests, and may include having received a donation to be used for electoral purposes.’.

Clause 10 Amendment of s 248 (Access to registers)

- (1) Section 248(2), from ‘other than’—
- omit, insert—*
- ‘other than by, for each local government, the following—

*Local Government and Other Legislation Amendment
Bill 2006*

	(a) any councillor of the local government;	1
	(b) the chief executive officer of the local government;	2
	(c) a person permitted by law to have access to information in the register, or the person's agent.'	3 4
	(2) Section 248—	5
	<i>insert—</i>	6
	'(5A) Subsections (3) to (5) do not apply to the accessing of information included in a register of councillor's interests if the information is prescribed under a regulation.	7 8 9
	'(5B) The information prescribed under subsection (5A) must relate only to the following—	10 11
	(a) gifts received;	12
	(b) hospitality benefits received;	13
	(c) memberships of organisations.	14
	'(5C) The local government must ensure the information prescribed under subsection (5A) is made available—	15 16
	(a) to any member of the public who asks to see it, at the public office of the local government; and	17 18
	(b) if the local government maintains a publicly accessible website—by being displayed, as soon as practicable after it is received, on the website.'	19 20 21
Clause 11	Amendment of s 250 (Improper use of information by councillors)	22 23
	(1) Section 250(1) from 'a councillor'—	24
	<i>omit, insert—</i>	25
	'a councillor to gain, directly or indirectly, a financial advantage for the person or someone else.'	26 27
	(2) Section 250, penalty, '35 penalty units'—	28
	<i>omit, insert—</i>	29
	'100 penalty units'.	30

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 12	Amendment of s 304 (Deposit to accompany nomination)	1
	Section 304(1), after ‘a candidate’—	2
	<i>insert—</i>	3
	‘, or another person on behalf of the person nominating as a candidate.’.	4
		5
Clause 13	Amendment of s 308 (Termination of candidature before noon on nomination day)	6
	Section 308(2)(b), ‘to the person’—	7
	<i>omit, insert—</i>	8
	‘to the person who paid the deposit’.	9
		10
Clause 14	Amendment of s 309 (Death of candidate)	11
	Section 309(b)—	12
	<i>omit, insert—</i>	13
	‘(b) the person’s deposit must be refunded to—	14
	(i) if the deposit was paid by someone other than the person—the other person; or	15
		16
	(ii) otherwise—the person’s personal representative.’.	17
Clause 15	Amendment of s 313 (Procedure on death of candidate when poll to be conducted)	18
	(1) Section 313(2), from ‘must be refunded’—	19
	<i>omit, insert—</i>	20
	‘must be refunded to—	21
	(a) if the deposit was paid by someone other than the candidate—the other person; or	22
		23
	(b) otherwise—the candidate’s personal representative.’.	24
		25
	(2) Section 313(3), ‘to the candidates’—	26
	<i>omit, insert—</i>	27
	‘to the persons who paid the deposits’.	28

*Local Government and Other Legislation Amendment
Bill 2006*

- (3) Section 313(4) and (5), ‘Governor in Council’— 1
 omit, insert— 2
 ‘Minister’. 3

- Clause 16 Amendment of s 314 (Disposal of deposits generally)** 4
 Section 314(1), ‘to the candidate’— 5
 omit, insert— 6
 ‘to the person who paid the deposit’. 7

- Clause 17 Amendment of s 316 (Extension of times)** 8
 Section 316(2), ‘Governor in Council’— 9
 omit, insert— 10
 ‘Minister’. 11

- Clause 18 Insertion of new s 316A** 12
 Chapter 5, part 6, division 4, after section 316— 13
 insert— 14
‘316A Special provision about refunding deposits 15
 ‘If under this division a deposit is to be refunded to a person 16
 (the *person entitled*), it may be refunded to someone else with 17
 the written authority of the person entitled.’. 18

- Clause 19 Amendment of s 329 (Correction of errors etc.)** 19
 Section 329, ‘Governor in Council’— 20
 omit, insert— 21
 ‘Minister’. 22

- Clause 20 Replacement of ss 383 and 384** 23
 Sections 383 and 384— 24
 omit, insert— 25

*Local Government and Other Legislation Amendment
Bill 2006*

'383	False or misleading information	1
	‘(1) A person must not give information under this chapter to a returning officer or to the chief executive officer of a local government, including information in a document, that the person knows is false or misleading in a material particular. Maximum penalty—7 years imprisonment.	2 3 4 5 6
	‘(2) Subsection (1) does not apply to a person giving a document if, when giving the document to someone, the person—	7 8
	(a) informs the other person, to the best of the person’s ability, how it is false or misleading; and	9 10
	(b) if the person has, or can reasonably obtain, the correct information—gives the other person the correct information.	11 12 13
	‘(3) It is enough for a charge against a person for an offence against subsection (1) to state the information, without specifying which part of the information, was ‘false or misleading’.’.	14 15 16 17
 Clause 21	 Amendment of s 385 (Bribery)	 18
	(1) Section 385(2)— <i>insert</i> — ‘Maximum penalty—7 years imprisonment.’.	19 20 21
	(2) Section 385(3), penalty— <i>omit, insert</i> — ‘Maximum penalty for subsection (3)—7 years imprisonment.’.	22 23 24 25
 Clause 22	 Amendment of s 386 (Providing money for illegal payments)	 26 27
	Section 386, penalty— <i>omit, insert</i> — ‘Maximum penalty—2 years imprisonment.’.	28 29 30

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 23	Amendment of s 389 (Forging or uttering electoral papers)	1 2
	(1) Section 389(1), penalty—	3
	<i>omit, insert—</i>	4
	‘Maximum penalty—10 years imprisonment.’.	5
	(2) Section 389(2), penalty—	6
	<i>omit, insert—</i>	7
	‘Maximum penalty for subsection (2)—10 years imprisonment.’.	8 9
 Clause 24	 Amendment of s 392 (Responsibility for election matter)	 10
	Section 392(1), penalty—	11
	<i>omit, insert—</i>	12
	‘Maximum penalty—	13
	(a) for an individual—20 penalty units; or	14
	(b) for a corporation—85 penalty units.’.	15
 Clause 25	 Insertion of new s 392B	 16
	After section 392A—	17
	<i>insert—</i>	18
	‘392B Lodging of how-to-vote cards	19
	‘(1) The person who authorised a how-to-vote card for a political party, or for a candidate endorsed by a political party, for an election must, not later than 5p.m. on the Friday that is 7 days before the polling day for the election, lodge with the returning officer for the election—	20 21 22 23 24
	(a) the required number of the how-to-vote cards; and	25
	(b) a statutory declaration relating to any financial contribution received from another political party or another candidate, whether directly or from someone else on behalf of the party or candidate, in relation to the production of the how-to-vote card that states—	26 27 28 29 30

*Local Government and Other Legislation Amendment
Bill 2006*

- | | |
|--|----|
| (i) who the financial contribution was received from | 1 |
| or on behalf of; and | 2 |
| (ii) the nature and amount of the financial contribution. | 3 |
| ‘(2) The person who authorised a how-to-vote card for a candidate | 4 |
| or a group of candidates for an election, other than a candidate | 5 |
| or group of candidates endorsed by a political party for the | 6 |
| election, must, by 5p.m. on the Friday that is 7 days before the | 7 |
| polling day for the election, lodge with the returning officer | 8 |
| for the election— | 9 |
| (a) the required number of the how-to-vote cards; and | 10 |
| (b) a statutory declaration relating to any financial | 11 |
| contribution received from a political party or another | 12 |
| candidate, whether directly or from someone else on | 13 |
| behalf of the party or candidate, in relation to the | 14 |
| production of the how-to-vote card that states— | 15 |
| (i) who the financial contribution was received from | 16 |
| or on behalf of; and | 17 |
| (ii) the nature and amount of the financial contribution. | 18 |
| <i>Example for subsections (1) and (2)—</i> | 19 |
| If polling day is Saturday, 15 January, the how-to-vote cards and | 20 |
| statutory declaration must be lodged by 5p.m. on Friday, 7 January. | 21 |
| ‘(3) The returning officer must reject a how-to-vote card received | 22 |
| under subsection (1) or (2) that does not comply with section | 23 |
| 392A. | 24 |
| ‘(4) Before polling day, the returning officer must make a | 25 |
| how-to-vote card that the returning officer has not rejected | 26 |
| available for public inspection for free at— | 27 |
| (a) the place of nomination under section 301; and | 28 |
| (b) if the place of nomination is not also the public office of | 29 |
| the local government to which the election relates—the | 30 |
| local government’s public office. | 31 |
| ‘(5) On polling day, the returning officer must, to the extent that it | 32 |
| is reasonably practicable to do so, make the how-to-vote card | 33 |
| mentioned in subsection (4) available for public inspection for | 34 |
| free at each polling booth for which the how-to-vote card is | 35 |
| relevant. | 36 |

*Local Government and Other Legislation Amendment
Bill 2006*

- ‘(6) An election is not invalid only because the returning officer does not comply with subsection (4) or (5). 1
2
- ‘(7) A person must not distribute, or permit or authorise someone else to distribute, a how-to-vote card to which subsection (1) or (2) applies on polling day unless subsection (1) or (2) has been complied with for the card. 3
4
5
6
Maximum penalty—20 penalty units. 7
- ‘(8) If, on polling day, an electoral officer reasonably suspects a person is distributing a how-to-vote card to which subsection (1) or (2) applies and that subsection (1) or (2) has not been complied with for the card, the electoral officer may— 8
9
10
11
- (a) require the person to produce the how-to-vote card for inspection; and 12
13
- (b) confiscate any how-to-vote cards that have not been lodged as required by subsection (1) or (2). 14
15
- ‘(9) A person must not obstruct an electoral officer in the exercise of the power under subsection (8)(b), unless the person has a reasonable excuse. 16
17
18
Maximum penalty—20 penalty units. 19
- ‘(10) In this section— 20
- financial contribution* means a contribution in the form of money, property or other valuable consideration. 21
22
- obstruct* includes hinder and attempt to obstruct. 23
- required number*, of how-to-vote cards, means 12 more than the number of polling booths within the local government’s area at which the cards are to be distributed.’. 24
25
26

Clause 26	Amendment of s 393 (Headline to electoral advertisements)	27 28
	Section 393, penalty—	29
	<i>omit, insert</i> —	30
	‘Maximum penalty—	31

*Local Government and Other Legislation Amendment
Bill 2006*

- (a) for an individual—10 penalty units; or 1
 (b) for a corporation—40 penalty units.’. 2

Clause 27	Amendment of s 394 (Misleading voters)	3
	(1) Section 394(1) and (2)—	4
	<i>insert</i> —	5
	‘Maximum penalty—40 penalty units.’.	6
	(2) Section 394—	7
	<i>insert</i> —	8
	‘(4) In this section—	9
	<i>publish</i> includes publish on the Internet, even if the Internet	10
	site on which the publication is made is located outside	11
	Queensland.’.	12

Clause 28	Amendment of s 396 (Leave to vote)	13
	Section 396, penalty—	14
	<i>omit, insert</i> —	15
	‘Maximum penalty—	16
	(a) for an individual—10 penalty units; or	17
	(b) for a corporation—40 penalty units.’.	18

Clause 29	Amendment of s 397 (Canvassing in or near polling booths)	19
	(1) Section 397(1)(b), after ‘6m’—	20
	<i>insert</i> —	21
	‘, or a shorter distance approved under subsection (3),’.	22
	(2) Section 397—	23
	<i>insert</i> —	24
	‘(3) The returning officer may approve a shorter distance for	25
	subsection (1)(b) only on the conditions mentioned in	26
	subsection (4).	27
		28

*Local Government and Other Legislation Amendment
Bill 2006*

‘(4) For subsection (3), the conditions are—	1
(a) the shorter distance applies only in relation to canvassing for votes mentioned in subsection (2)(a); and	2 3
(b) the polling booth mentioned in subsection (1)(b)(i) must be a place declared as a polling booth under section 352(1); ¹ and	4 5 6
(c) the shorter distance applies only in relation to the casting of declaration votes before polling day under section 352.’.	7 8 9
Clause 30 Amendment of s 399 (Influencing voting)	10
Section 399, penalty, ‘85 penalty units or’—	11
<i>omit.</i>	12
Clause 31 Amendment of s 401 (Voting if not entitled)	13
Section 401, penalty—	14
<i>omit, insert—</i>	15
‘Maximum penalty—3 years imprisonment.’.	16
Clause 32 Amendment of ch 5, pt 8, hdg	17
Chapter 5, part 8, heading, after ‘gifts’—	18
<i>insert—</i>	19
‘and loans and requirements for accounts’.	20
Clause 33 Amendment of s 414 (Definitions for pt 8)	21
(1) Section 414, definition <i>disclosure period</i> , paragraphs (b) and (c)—	22 23
<i>omit, insert—</i>	24
‘(b) for sections 427A, 428(1A), 428B and 428C—see section 423A; and	25 26

1 Section 352 (Declaration voting before polling day)

*Local Government and Other Legislation Amendment
Bill 2006*

- (c) for section 430—see section 424; and 1
- (d) for section 430A—see section 425.’. 2
- (2) Section 414, definition *disposition of property*— 3
- insert*— 4
- ‘(g) payment for attendance at or participation in a 5
- fundraising activity. 6
- Example for paragraph (g)*— 7
- a payment made for admission to a social function, as the 8
- highest bidder for an item at an auction or for buying a ticket in a 9
- raffle’. 10
- (3) Section 414, definition *prescribed amount*, paragraph (a)— 11
- omit, insert*— 12
- ‘(a) in sections 427(2)(b)(iii), 427A(2)(e), 428(1), 428B(4), 13
- 428C(1), 430A(1)(b) and 431A(6)²—\$200; or’. 14
- (4) Section 414, definition *relevant details*, paragraph (b)(ii)— 15
- omit, insert*— 16
- ‘(ii) the title or other description of the trust fund or the 17
- name of the foundation; and 18
- (iii) if the gift is made out of a trust account of a lawyer 19
- or accountant under the instructions of a person 20
- who is in substance the giver of the gift—the name 21
- and residential or business address of the person; 22
- or’. 23

Clause 34 Insertion of new ss 417A 24

- Chapter 5, part 8, division 1— 25
- insert*— 26

2 Sections 427 (Gifts to candidates), 427A (Gifts to groups of candidates), 428 (Certain gifts not to be received), 428B (Loans to candidates or groups of candidates), 428C (Certain loans not to be received), 430A (Third party expenditure for political purposes) and 431A (Donations to candidates)

*Local Government and Other Legislation Amendment
Bill 2006*

'417A	Adjustment of prescribed amount in relation to disclosure period	1 2
'(1)	This section applies if—	3
(a)	during a disclosure period under this part, a regulation prescribes an amount (the <i>new amount</i>) as the prescribed amount for section 414, definition <i>prescribed amount</i> , for a provision of this part; and	4 5 6 7
(b)	the new amount is still in force as the prescribed amount for the provision at the end of the disclosure period; and	8 9
(c)	a person is required, under the provision, to give the chief executive officer of a local government a return that relates to the disclosure period.	10 11 12
'(2)	For the completion of the return, the prescribed amount is taken always to have been, for the whole of the disclosure period, the new amount.'	13 14 15
 Clause 35	 Amendment of s 423A (Disclosure period for s 427A)	 16
(1)	Section 423A, heading, 'for s 427A'— <i>omit, insert—</i> 'for particular sections' .	17 18 19
(2)	Section 423A, 'For section 427A,'— <i>omit, insert—</i> 'For sections 427A, 428(1A), 428B and 428C,'.	20 21 22
 Clause 36	 Insertion of new s 425	 23
	Chapter 5, part 8, division 2, subdivision 2— <i>insert—</i>	24 25
'425	Disclosure period for s 430A	26
'(1)	For section 430A, the disclosure period for an election for a local government other than the Brisbane City Council—	27 28
(a)	starts on the day after the day the returning officer publishes notice of the election in a newspaper under section 301; and	29 30 31

*Local Government and Other Legislation Amendment
Bill 2006*

(b) ends at 6p.m. on the polling day for the election. 1

‘(2) For section 430A, the disclosure period for an election for the
Brisbane City Council— 2
3

(a) starts on the day after the day of the issue of the writ for
the election; and 4
5

(b) ends at 6p.m. on the polling day for the election.’. 6

Clause 37 Amendment of ch 5, pt 8, div 3, hdg (Disclosure of gifts) 7

Chapter 5, part 8, division 3, heading, after ‘gifts’— 8

insert— 9

‘and loans and requirements for accounts’. 10

Clause 38 Amendment of s 426 (Definitions for div 3) 11

(1) Section 426, definition *group of candidates*— 12

omit. 13

(2) Section 426— 14

insert— 15

‘**agent**, for a group of candidates for an election, means the
agent for the group recorded in a register of group agents
under section 435E. 16
17
18

group of candidates, for an election— 19

1 A *group of candidates*, for an election, means a group of
individuals, each of whom is a candidate for the
election, if the group was formed— 20
21
22

(a) to promote the election of the candidates; or 23

(b) to share in the benefits of fundraising for the
purposes of promoting the election of the
candidates; or 24
25
26

(c) for both paragraphs (a) and (b). 27

2 However, a *group of candidates*, for an election, does
not include a political party or an associated entity.’. 28
29

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 39	Amendment of s 427 (Gifts to candidates)	1
	Section 427(2), ‘3 months’—	2
	<i>omit, insert—</i>	3
	‘15 weeks’.	4
 Clause 40	 Amendment of s 427A (Gifts to groups of candidates)	 5
	(1) Section 427A(2), ‘Within 3 months after the conclusion of the election, the candidate’—	6
	<i>omit, insert—</i>	7
	‘Within 15 weeks after the conclusion of the election, the group’s agent’.	8
	(2) Section 427A(3), ‘A candidate’—	9
	<i>omit, insert—</i>	10
	‘The agent’.	11
	(3) Section 427A(3)(a), ‘the candidate gives’—	12
	<i>omit, insert—</i>	13
	‘each candidate who is a member of the group gives’.	14
	(4) Section 427A(3)(a), ‘states the candidate’—	15
	<i>omit, insert—</i>	16
	‘states’.	17
	(5) Section 427A(3)(a)(i), ‘does not’—	18
	<i>omit, insert—</i>	19
	‘the candidate does not’.	20
	(6) Section 427A(3)(a)(ii), ‘will give a return under the section’—	21
	<i>omit, insert—</i>	22
	‘the group’s agent will give a return under this section’.	23
		24
		25
		26
 Clause 41	 Amendment of s 428 (Certain gifts not to be received)	 27
	(1) Section 428—	28

*Local Government and Other Legislation Amendment
Bill 2006*

- insert—* 1
- (1A) It is unlawful for a group of candidates for an election, or a 2
 person acting on behalf of a group of candidates for an 3
 election, to receive, during the disclosure period for the 4
 election, a gift made to or for the benefit of the group of 5
 candidates, the value of which is the prescribed amount or 6
 more unless— 7
- (a) the relevant details for the gift are known to the group or 8
 person receiving the gift; or 9
- (b) when the gift is made— 10
- (i) the person making the gift gives the group or 11
 person receiving the gift details of the gift; and 12
- (ii) the group or person receiving the gift has no 13
 reasonable grounds to believe that the details given 14
 are not the relevant details for the gift.’. 15
- (2) Section 428(2), ‘person’— 16
omit, insert— 17
 ‘person or group’. 18
- (3) Section 428(2), ‘subsection (1)’— 19
omit, insert— 20
 ‘subsection (1) or (1A)’. 21
- (4) Section 428(3), ‘subsection (1)’— 22
omit, insert— 23
 ‘subsections (1) and (1A)’. 24
- (5) Section 428(4), after ‘one candidate’— 25
omit, insert— 26
 ‘or group of candidates’. 27
- (6) Section 428(5)— 28
insert— 29
 ‘**person acting on behalf of a group of candidates for an** 30
election includes the group’s campaign committee for the 31
 election.’. 32

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 42	Insertion of new ss 428A to 428C	1
	After section 428—	2
	<i>insert—</i>	3
	‘428A Valuation of fundraising activity gifts	4
	‘For the application of section 427, 427A or 428 to a gift in the form of a payment for attendance at or participation in a fundraising activity, the value of the gift is taken to be the gross amount of the payment, regardless of the value of anything received in consideration for the payment.	5 6 7 8 9
	‘428B Loans to candidates or groups of candidates	10
	‘(1) Each candidate for an election must, within 15 weeks after the conclusion of the election, give the chief executive officer of the local government to which the election relates a return, in the approved form, covering all loans received by the candidate from a person other than a financial institution during the disclosure period for the election.	11 12 13 14 15 16
	‘(2) The agent for a group of candidates for an election must, within 15 weeks after the conclusion of the election, give the chief executive officer of the local government to which the election relates a return, in the approved form, covering all loans received by the group from a person other than a financial institution during the disclosure period for the election.	17 18 19 20 21 22 23
	‘(3) A return under subsection (1) or (2) must state—	24
	(a) the total value of the loans; and	25
	(b) the number of persons who made loans.	26
	‘(4) The return must also state the following for each loan with a value of the prescribed amount or more—	27 28
	(a) the date on which the loan was made;	29
	(b) for a loan from the members of an unincorporated association—	30 31
	(i) the association’s name; and	32

*Local Government and Other Legislation Amendment
Bill 2006*

(ii) unless the association is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association;	1 2 3 4
(c) for a loan purportedly made out of a trust fund or out of the funds of a foundation—	5 6
(i) the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and	7 8 9
(ii) the title or other description of the trust fund or the name of the foundation; and	10 11
(iii) if the loan is made out of a trust account of a lawyer or accountant under the instructions of a person who is in substance the lender—the name and residential or business address of the person;	12 13 14 15
(d) if neither of paragraphs (b) and (c) apply to the loan—the name and residential or business address of the person who made the loan;	16 17 18
(e) the terms and conditions of the loan.	19
 ‘428C Certain loans not to be received	 20
‘(1) It is unlawful for a candidate for an election, a group of candidates for an election, or a person acting on behalf of a candidate or group of candidates for an election, to receive a loan of the prescribed amount or more from a person other than a financial institution during the disclosure period for the election unless the candidate, group or person keeps a record of the following—	21 22 23 24 25 26 27
(a) the terms and conditions of the loan;	28
(b) if the loan was received from a registered industrial organisation other than a financial institution—	29 30
(i) the name of the organisation; and	31
(ii) the names and addresses of the members of the executive committee (however described) of the organisation;	32 33 34

*Local Government and Other Legislation Amendment
Bill 2006*

- | | | |
|-------|--|----------------------|
| (c) | if the loan was received from an unincorporated association— | 1
2 |
| (i) | the name of the association; and | 3 |
| (ii) | unless the association is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association; | 4
5
6
7 |
| (d) | if the loan was paid out of a trust fund or out of the funds of a foundation— | 8
9 |
| (i) | the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and | 10
11
12 |
| (ii) | the title or other description of the trust fund, or the name of the foundation; and | 13
14 |
| (iii) | if the loan is made out of a trust account of a lawyer or accountant under the instructions of a person who is in substance the lender—the name and residential or business address of the lender; | 15
16
17
18 |
| (e) | if none of paragraphs (b), (c) and (d) applies—the name and residential or business address of the person. | 19
20 |
| ‘(2) | If a candidate, group or person receives a loan that, because of subsection (1), it is unlawful for the candidate, group or person to receive, an amount equal to the amount or value of the loan— | 21
22
23
24 |
| (a) | is payable by the candidate, group or person to the local government to which the election relates; and | 25
26 |
| (b) | may be recovered by the local government from the candidate, group or person as a debt. | 27
28 |
| ‘(3) | In this section— | 29 |
| | <i>person acting on behalf of a candidate or group of candidates for an election</i> includes the candidate’s or group’s campaign committee for the election.’. | 30
31
32 |

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 43	Amendment of s 429 (Chief executive officer to give reminder notice to candidates)	1 2
	(1) Section 429(1A), after ‘apply’—	3
	<i>insert</i> —	4
	‘because of subsection (1)’.	5
	(2) Section 429—	6
	<i>insert</i> —	7
	‘(1B) This section also applies if the agent for a group of candidates for an election has not given the return the agent is required, under section 427A(2), to give for the election.	8 9 10
	‘(1C) To remove any doubt, it is declared that this section does not apply because of subsection (1B) if, under section 427A(3), the agent is not required to give the return.’	11 12 13
	(3) Section 429(2), ‘2 months’—	14
	<i>omit, insert</i> —	15
	‘10 weeks’.	16
	(4) Section 429(2), ‘candidate’—	17
	<i>omit, insert</i> —	18
	‘candidate or agent’.	19
	(5) Section 429(3)(a), ‘3 months’—	20
	<i>omit, insert</i> —	21
	‘15 weeks’.	22
	(6) Section 429(3)(b)—	23
	<i>insert</i> —	24
	‘• section 428B’.	25
 Clause 44	 Amendment of s 430 (Gifts for third party expenditure for political purposes)	 26 27
	Section 430(2), ‘before the end of 3 months’—	28
	<i>omit, insert</i> —	29
	‘within 15 weeks’.	30

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 45	Insertion of new s 430A	1
	After section 430—	2
	<i>insert—</i>	3
	‘430A Third party expenditure for political purposes	4
	‘(1) This section applies if, during the disclosure period for this section for an election (the <i>relevant election</i>) relating to a local government (the <i>relevant local government</i>)—	5 6 7
	(a) a person (other than a political party, an associated entity or a candidate for the relevant election) incurs or has incurred expenditure for a political purpose in relation to the relevant election; and	8 9 10 11
	(b) the total amount of all the expenditure mentioned in paragraph (a) is the prescribed amount or more.	12 13
	<i>Note—</i>	14
	The disclosure period for this section is defined in section 425.	15
	‘(2) The person must, within 15 weeks after the conclusion of the relevant election, give the chief executive officer of the relevant local government a return in the approved form stating the following details about the expenditure—	16 17 18 19
	(a) the total value of the expenditure;	20
	(b) when the expenditure was incurred;	21
	(c) the particular purpose of the expenditure.	22
	‘(3) For subsection (1), a person does not include persons appointed to form a committee to help the campaign in an election of a candidate who has been nominated for election by the registered officer of a political party if the campaign committee is recognised by the political party as being part of the political party.	23 24 25 26 27 28
	‘(4) Also, for subsection (1), a person does not include a person who is a member of a candidate’s campaign committee or a group’s campaign committee for an election of the candidate or members of a group of candidates for the election.	29 30 31 32
	‘(5) Expenditure for a political purpose relating to 2 or more local governments is taken to have been incurred for a political purpose about an election relating to each local government.	33 34 35

*Local Government and Other Legislation Amendment
Bill 2006*

- ‘(6) In this section— 1
expenditure, for a political purpose, means expenditure for 2
 or more of the following— 3
- (a) publication by any means (including radio or television) 4
 of election matter; 5
 - (b) public expression of views on an issue in an election; 6
 - (c) a gift to a political party; 7
 - (d) a gift to a candidate in an election; 8
 - (e) a gift to a person on the understanding that the person or 9
 someone else will apply, either directly or indirectly, the 10
 whole or a part of the gift for a purpose mentioned in 11
 paragraph (a), (b), (c) or (d).’ 12

- Clause 46 Insertion of new ch 5, pt 8, div 3, sdiv 2A 13**
 Chapter 5, part 8, division 3— 14
insert— 15

‘Subdivision 2A Disclosure by donors 16

‘431A Donations to candidates 17

- ‘(1) This section applies if, during the disclosure period for a 18
 candidate for an election for a local government, a person (the 19
donor), other than a political party, an associated entity, 20
 another candidate for the election or a group of candidates for 21
 the election, makes a gift in relation to the election to— 22
- (a) the candidate; or 23
 - (b) a group of candidates for the election of which the 24
 candidate is a member. 25
- ‘(2) When the candidate or group of candidates receives the gift, 26
 the relevant person must inform the donor of the donor’s 27
 requirement to lodge a return under this section. 28
- ‘(3) The donor must, within 15 weeks after the polling day for the 29
 election, give the chief executive officer of the local 30

*Local Government and Other Legislation Amendment
Bill 2006*

- government a return, in the approved form, stating the
required details of the gift. 1 2
- Maximum penalty—20 penalty units. 3
- ‘(4) Subsection (3) applies to the donor even if at the time the
donor made the gift the donor was outside Queensland. 4 5
- ‘(5) If a person makes a gift to any person with the intention of
benefiting a particular candidate, the person is taken for
subsection (1) to have made the gift directly to the candidate. 6 7 8
- ‘(6) The donor need not give a return under subsection (3) if the
total amount or value of all gifts to which subsection (1)
applies was less than the prescribed amount. 9 10 11
- ‘(7) For subsection (3), the required details of a gift are its amount
or value, the date on which it was made and— 12 13
- (a) if the gift was made to an unincorporated association— 14
- (i) the association’s name; and 15
- (ii) unless the association is a registered industrial
organisation—the names and residential or
business addresses of the members of the executive
committee (however described) of the association;
or 16 17 18 19 20
- (b) if the gift was made to a trust fund or paid into the funds
of a foundation— 21 22
- (i) the names and residential or business addresses of
the trustees of the fund or other persons
responsible for the funds of the foundation; and 23 24 25
- (ii) the title or other description of the trust fund or the
name of the foundation; or 26 27
- (c) in any other case—the name and residential or business
address of the person to whom the gift was given. 28 29
- ‘(8) In this section— 30
- relevant person*** means— 31
- (a) if it is the group of candidates that receives the gift—the
group’s agent; or 32 33
- (b) otherwise—the candidate.’. 34

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 47	Insertion of new ch 5, pt 8, div 3, sdiv 4	1
	Chapter 5, part 8, division 3—	2
	<i>insert—</i>	3
	‘Subdivision 4 Operation of accounts	4
	‘432A Requirement for candidate to operate dedicated account	5 6
	‘(1) This section applies to a candidate for an election.	7
	‘(2) The candidate must operate an account with a financial institution if the candidate receives an amount mentioned in subsection (3) or pays an amount mentioned in subsection (4).	8 9 10
	‘(3) All amounts received by the candidate, or by the candidate’s campaign committee, during the disclosure period for the candidate for the election for the conduct of the candidate’s campaign, including all gifts received by the candidate for the election, and all amounts received as loans to the candidate, must be placed in the account.	11 12 13 14 15 16
	‘(4) All amounts paid by the candidate, or by the candidate’s campaign committee, during the disclosure period for the candidate for the election for the conduct of the candidate’s campaign must be paid out of the account.	17 18 19 20
	‘(5) The account must not be used other than for receiving and paying amounts under subsections (3) and (4).	21 22
	‘(6) The candidate must take all reasonable steps to ensure the requirements of subsections (2) to (5) are complied with.	23 24
	Maximum penalty—100 penalty units.	25
	‘(7) Amounts mentioned in subsections (3) and (4) do not include amounts received or paid out by a group of candidates for the election of which the candidate is a member.	26 27 28
	‘432B Requirement for group of candidates to operate dedicated account	29 30
	‘(1) This section applies if a candidate for an election is a member of a group of candidates for the election.	31 32

*Local Government and Other Legislation Amendment
Bill 2006*

- ‘(2) The group must operate an account with a financial institution if the group receives an amount mentioned in subsection (3) or pays an amount mentioned in subsection (4).’ 1
2
3
- ‘(3) All amounts received by the group, or by the group’s campaign committee, during the disclosure period for the candidates for the election for the conduct of the group’s campaign, including all gifts received by the group for the election, and all amounts received as loans to the group, must be placed in the account.’ 4
5
6
7
8
9
- ‘(4) All amounts paid by the group, or the group’s campaign committee, during the disclosure period for the candidates for the election for the conduct of the group’s campaign for the election must be paid out of the account.’ 10
11
12
13
- ‘(5) The account must not be used other than for receiving and paying amounts under subsections (3) and (4).’ 14
15
- ‘(6) Each candidate who is a member of the group must take all reasonable steps to ensure the requirements of subsections (2) to (5) are complied with.’ 16
17
18
Maximum penalty for subsection (6)—100 penalty units.’. 19

Clause 48 Insertion of new ch 5, pt 8, div 4A 20

Chapter 5, part 8— 21

insert— 22

**‘Division 4A Recording of group’s membership
and group’s agent** 23
24

‘435A Definitions for div 4A 25

‘In this division— 26

group of candidates means a group of candidates mentioned in division 3. 27
28

nomination entity, for a candidate’s nomination, means— 29

- (a) for a candidate for an election for a local government other than the Brisbane City Council—the returning officer for the election; or 30
31
32

*Local Government and Other Legislation Amendment
Bill 2006*

(b) for a candidate for an election for the Brisbane City Council—the town clerk of the Brisbane City Council.	1 2
<i>nomination requirements</i> means—	3
(a) the record of group membership requirement stated in this division; and	4 5
(b) the group agent nomination requirement stated in this division.	6 7
<i>relevant period</i> , for a candidate for an election, means the period—	8 9
(a) starting at noon on the last day for the receipt of the candidate’s nomination for the election; and	10 11
(b) ending at 6p.m. on the day that is, under the <i>Electoral Act 1992</i> or this Act, the polling day for the election.	12 13
‘435B Offence to advertise or fundraise for group if nomination requirements not complied with	14 15
‘(1) A candidate for an election who is a member of a group of candidates for the election must not, during the relevant period for the candidate for the election, advertise or fundraise for the election unless the nomination requirements have been complied with.	16 17 18 19 20
Maximum penalty—100 penalty units.	21
‘(2) For subsection (1), the candidate advertises for the election if—	22 23
(a) a person, whether or not a member of the group, but acting for the purposes of the group, prints, publishes, distributes or broadcasts, or permits or authorises someone else to print, publish, distribute or broadcast, any advertisement, handbill, pamphlet or notice containing election matter; and	24 25 26 27 28 29
(b) the election matter promotes the election of 1 or more of the members of the group.	30 31
‘(3) For subsection (1), the candidate fundraises for the election if a person, whether or not a member of the group, but acting for the purposes of the group, conducts an activity directed at	32 33 34

*Local Government and Other Legislation Amendment
Bill 2006*

collecting money to be used for promoting the election of 1 or more members of the group.	1 2
<i>Examples of fundraising activities—</i>	3
conducting a social function at which persons are charged for admission, or conducting an auction or a raffle	4 5
‘(4) It is a defence in a prosecution under subsection (1) for the candidate to prove the candidate exercised reasonable diligence to ensure no person acted in a way that would cause the candidate to contravene the subsection.	6 7 8 9
‘435C Record of group membership requirement	10
‘(1) This section states the record of group membership requirement.	11 12
‘(2) The record of group membership requirement is a requirement that, after the candidate was nominated for the election, but before the commencement of the relevant period for the candidate for the election, there was given to the nomination entity for the candidate’s nomination a record of the membership of the group complying with subsection (3).	13 14 15 16 17 18
‘(3) The record of the membership of the group must—	19
(a) be in the approved form; and	20
(b) state the names of the candidates who are the members of the group; and	21 22
(c) be signed by each of the candidates who are the members of the group.	23 24
‘(4) As soon as practicable after the nomination entity receives the record of the membership of the group, the nomination entity must ensure a copy of the record is displayed—	25 26 27
(a) at the place of nomination; and	28
(b) if the place of nomination is not also the public office of the local government to which the election relates—at the local government’s public office.	29 30 31

*Local Government and Other Legislation Amendment
Bill 2006*

‘435D Group agent nomination requirement	1
‘(1) This section states the group agent nomination requirement.	2
‘(2) The group agent nomination requirement is a requirement that, when the record of group membership requirement was complied with, there was also given to the nomination entity for the candidate’s nomination an instrument, complying with subsection (3), appointing an adult as an agent for the group.	3 4 5 6 7
‘(3) The instrument appointing the agent must—	8
(a) be in the approved form; and	9
(b) state the name and address of the person appointed as agent; and	10 11
(c) be signed by each of the candidates who are the members of the group; and	12 13
(d) be signed by the person appointed as agent, and include or be accompanied by—	14 15
(i) the person’s signed agreement to being appointed as the group’s agent; and	16 17
(ii) the person’s signed declaration that the person is eligible to be appointed as the group’s agent.	18 19
‘(4) The instrument appointing the agent may be included in the record of the membership of the group.	20 21
 ‘435E Register of group agents	 22
‘(1) The nomination entity for a candidate’s nomination must keep a register to be known as the register of group agents.	23 24
‘(2) The nomination entity must record in its register of group agents the name and address of each person who is appointed as the agent for a group of candidates that includes the candidate as a member.	25 26 27 28
‘(3) The appointment of an agent for a group of candidates—	29
(a) is not effective under this Act until the appointment has been recorded in the relevant register of group agents; and	30 31 32

*Local Government and Other Legislation Amendment
Bill 2006*

- (b) ceases to be effective only if the person's name is taken from the register. 1
2
- '(4) The name of a person may be taken from the register under subsection (3)(b) only if— 3
4
- (a) the person gives the nomination entity a written notice, signed by the person, stating that he or she has resigned the appointment as agent; and 5
6
7
- (b) the group of candidates gives the nomination entity a written notice, signed by all members of the group, stating that the person has ceased to be the group's agent. 8
9
10
11
- '(5) If the name of a person is taken from the register under subsection (4), the group of candidates may act in accordance with the group agent nomination requirement to appoint another agent. 12
13
14
15
- '(6) If no agent is currently recorded for a group of candidates in a relevant register of group agents, all obligations under this Act applying to an agent, including liability for any offence, apply to each member of the group of candidates as if each candidate was the appointed agent of the group.' 16
17
18
19
20

- Clause 49 Amendment of s 436 (Offences about returns)** 21
- Section 436— 22
- insert—* 23
- '(2A) If a candidate is a member of a group of candidates mentioned in division 3, and the group's agent is required under section 427A(2) or 428B(2) to give a return, the candidate must not allow the agent to give the return if it contains particulars that are, to the knowledge of the candidate, false or misleading in a material particular. 24
25
26
27
28
29
- Maximum penalty—100 penalty units.' 30

- Clause 50 Insertion of new ch 5, pt 9** 31
- Chapter 5— 32
- insert—* 33

‘Part 9	Miscellaneous election matters	1
‘Division 1	Preliminary	2
‘441A	Application of pt 9 to Brisbane City Council	3
	‘This part applies to the Brisbane City Council.	4
‘Division 2	Code of conduct for candidates	5
‘441B	Code of conduct	6
	‘(1) The chief executive of the department may develop, and make publicly available to local governments and otherwise as the chief executive considers appropriate, a code of conduct for candidates for elections for local governments.	7 8 9 10
	‘(2) A candidate for an election for a local government may, by written notice given to the chief executive officer of the local government, agree in writing to comply with the code of conduct.	11 12 13 14
	‘(3) The chief executive officer of the local government must keep a register of candidates for elections for the local government who have agreed to comply with the code of conduct.	15 16 17
	‘(4) The chief executive officer must—	18
	(a) make the register publicly available for inspection; and	19
	(b) if asked by any person, advise the person whether or not a stated candidate is included in the register.	20 21
‘Division 3	Caretaker period arrangements	22
‘441C	Definitions for div 3	23
	‘In this division—	24

*Local Government and Other Legislation Amendment
Bill 2006*

<i>caretaker period</i> , for an election for a local government, means—	1 2
(a) for an election for the Brisbane City Council, the period that, under the <i>Electoral Act 1992</i> , is the election period for the election; or	3 4 5
(b) for an election for a local government other than the Brisbane City Council, the election period for the election under this Act.	6 7 8
<i>major policy decision</i> , for a local government, means a decision—	9 10
(a) about the appointment of a chief executive officer of the local government; or	11 12
(b) about the remuneration of the chief executive officer of the local government; or	13 14
(c) to terminate the employment of the chief executive officer of the local government; or	15 16
(d) to enter into a contract the total value of which is more than the greater of the following—	17 18
(i) \$150000;	19
(ii) 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report.	20 21 22 23
'441D Prohibition on major policy decision in caretaker period	24 25
'(1) A local government must not make a major policy decision in the caretaker period for an election for the local government.	26 27
'(2) However, if the local government considers that, having regard to exceptional circumstances that apply, it is necessary to make the major policy decision in the public interest, the local government may apply to the Minister for approval to make the decision.	28 29 30 31 32
'(3) The Minister may give the approval if the Minister is satisfied that, having regard to exceptional circumstances that apply, it	33 34

*Local Government and Other Legislation Amendment
Bill 2006*

is necessary for the local government to make the major policy decision in the public interest. 1
2

‘(4) The Minister’s approval may be given on conditions the local government must comply with. 3
4

‘(5) This section applies despite chapter 6, part 3. 5

**‘441E Invalidity of major policy decision in caretaker period without approval 6
7**

‘(1) A major policy decision made by a local government in the caretaker period for an election for the local government is invalid to the extent the local government does not have the Minister’s approval under this division to make the decision. 8
9
10
11

‘(2) A contract is void if it is the subject of a major policy decision that is invalid. 12
13

‘(3) A person who acts in good faith in relation to a major policy decision of a local government, or in relation to a contract that is the subject of a major policy decision, but who suffers loss or damage because of any invalidity of the decision under subsection (1) or because the contract is void under subsection (2), has a right to be compensated by the local government for the loss or damage. 14
15
16
17
18
19
20

‘(4) The person may bring a proceeding to recover the compensation in a court of competent jurisdiction. 21
22

‘441F Prohibition on election material in caretaker period 23

‘A local government must not, in the caretaker period for an election for the local government, publish or distribute election matter for the election.’. 24
25
26

Clause 51 Insertion of new s 461A 27

After section 461— 28

insert— 29

‘461A Recording of reasons for particular decisions 30

‘(1) This section applies if a decision made at a meeting— 31

*Local Government and Other Legislation Amendment
Bill 2006*

- | | | |
|------|--|----------------------------|
| (a) | is inconsistent with a recommendation or advice given to the local government by a person— | 1
2 |
| (i) | who is an employee of the local government or is otherwise engaged to provide services to the local government; and | 3
4
5 |
| (ii) | whose duties include giving the recommendation or advice; and | 6
7 |
| (b) | either or both of the following apply to the decision— | 8 |
| (i) | the decision is about entering into a contract the total value of which is more than the greater of the following— | 9
10
11 |
| (A) | \$150000; | 12 |
| (B) | 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report; | 13
14
15
16
17 |
| (ii) | the decision is inconsistent with— | 18 |
| (A) | the policy or approach ordinarily followed by the local government for the type of decision; or | 19
20
21 |
| (B) | a policy previously adopted by the local government by resolution, whether or not as required by this Act, and still in force. | 22
23
24 |
| | <i>Examples of decisions to which subsection (1) might apply—</i> | 25 |
| • | the grant of a licence, permit or approval, however named, under an Act or local law | 26
27 |
| • | the grant of a concession, rebate or waiver in relation to an amount owed to the local government | 28
29 |
| • | disposing of land or a non-current asset | 30 |
| (2) | The chief executive officer of the local government must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation or advice.' | 31
32
33 |

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 52	Amendment of s 1077 (Indictable offences and summary offences)	1 2
	Section 1077(2), after ‘against this Act’—	3
	<i>insert—</i>	4
	‘, other than a designated election offence.’.	5
 Clause 53	 Insertion of new s 1077A	 6
	After section 1077—	7
	<i>insert—</i>	8
	‘1077A Designated election offences and application of Criminal Code	9 10
	‘(1) An offence (a <i>designated election offence</i>) against any of the following provisions is a crime—	11 12
	• section 383	13
	• section 385	14
	• section 386	15
	• section 389	16
	• section 399	17
	• section 401.	18
	‘(2) Sections 1078 and 1079 do not apply to a designated election offence.	19 20
	‘(3) The Criminal Code, chapter 58A ³ applies to a designated election offence.	21 22
	‘(4) Without limiting subsection (3), the chapter applies to a designated election offence as if the offence were an offence mentioned in section 552B(1)(ka) of the code.	23 24 25

3 Criminal Code, chapter 58A (Indictable offences dealt with summarily)

*Local Government and Other Legislation Amendment
Bill 2006*

Editor's note—

The Criminal Code, section 552B(1)(ka) refers to an offence against chapter 14, chapter division 2⁴ of the code.⁴

	<i>Editor's note—</i>	1
	The Criminal Code, section 552B(1)(ka) refers to an offence against chapter 14, chapter division 2 ⁴ of the code. ⁴	2 3
Clause 54	Insertion of new ch 15, pt 5, div 11	4
	Chapter 15, part 5—	5
	<i>insert—</i>	6
	'Division 11 Consideration of errors or omissions in registers of interests and election disclosure returns	7 8 9
	'Subdivision 1 Preliminary	10
	'1105A Definitions for div 11	11
	'In this division—	12
	<i>appointing officer</i> , for an investigating officer, means—	13
	(a) if the investigating officer is an investigating officer for the department—the department chief executive; or	14 15
	(b) if the investigating officer is an investigating officer for a local government—the chief executive officer of the local government.	16 17 18
	<i>department chief executive</i> means the chief executive of the department.	19 20
	<i>incorrect</i> , for a register or return, includes incomplete.	21
	<i>investigating officer—</i>	22
	1 An <i>investigating officer</i> , for the department, means a person who is appointed under this division as an investigating officer for the department.	23 24 25

4 Criminal Code, chapter 14 (Corrupt and improper practices at elections), chapter division 2 (Legislative Assembly and Brisbane City Council elections and referendums)

*Local Government and Other Legislation Amendment
Bill 2006*

- 2 An *investigating officer*, for a local government, means a 1
 person who is appointed under this division as an 2
 investigating officer for the local government. 3
- register* means a register of interests under section 247. 4
- return* means— 5
- (a) a return under section 242; or 6
- (b) a return under chapter 5, part 8. 7

‘Subdivision 2 Investigating officers 8

‘1105B Appointment 9

- ‘(1) The department chief executive may appoint a person as an 10
 investigating officer for the department. 11
- ‘(2) The chief executive officer of a local government may act for 12
 the local government to appoint a person as an investigating 13
 officer for the local government. 14
- ‘(3) The appointing officer may appoint a person as an 15
 investigating officer only if the appointing officer is 16
 satisfied— 17
- (a) the appointment is reasonably necessary for the proper 18
 administration of this division; and 19
- (b) the person has the necessary expertise or experience for 20
 the appointment. 21

‘1105C Investigating officer’s powers 22

- ‘(1) An investigating officer holds office on the conditions stated 23
 in— 24
- (a) the investigating officer’s instrument of appointment; or 25
- (b) a signed notice given to the investigating officer; or 26
- (c) a regulation. 27

*Local Government and Other Legislation Amendment
Bill 2006*

- ‘(2) Subject to any limitation under subsection (3), for any matter arising under this division in relation to a register or a return, the investigating officer—
- (a) has all the powers of an investigating officer under this division; and
- (b) without further appointment, is an authorised person under divisions 4, 5, 8 and 9.
- ‘(3) The instrument of appointment, a signed notice given to the investigating officer or a regulation may limit the investigating officer’s powers under this Act, including the powers the investigating officer may exercise as an authorised person.
- ‘(4) In this section—
- signed notice* means a notice signed by the investigating officer’s appointing officer.

‘1105D Investigating officer’s identity card

- ‘(1) An investigating officer’s appointing officer must give the investigating officer an identity card.
- ‘(2) The identity card must—
- (a) contain a recent photograph of the investigating officer; and
- (b) contain a copy of the investigating officer’s signature; and
- (c) identify the investigating officer as an investigating officer under this Act; and
- (d) state an expiry date for the card.
- ‘(3) This section does not prevent the issue of a single identity card to a person for this division and other provisions, Acts or purposes, including for example for the purposes of the investigating officer’s holding office as an authorised person under this part.

*Local Government and Other Legislation Amendment
Bill 2006*

‘1105E Production or display of identity card	1
‘(1) In exercising a power under this division in relation to another person, an investigating officer must—	2 3
(a) produce the investigating officer’s identity card for the other person’s inspection before exercising the power; or	4 5 6
(b) have the identity card displayed so it is clearly visible to the other person when exercising the power.	7 8
‘(2) However, if it is not practicable to comply with subsection (1), the investigating officer must produce the identity card for the other person’s inspection at the first reasonable opportunity.	9 10 11 12
‘1105F When investigating officer ceases to hold office	13
‘(1) An investigating officer ceases to hold office if any of the following happens—	14 15
(a) the term of office stated in a condition of office ends;	16
(b) under another condition of office, the investigating officer ceases to hold office;	17 18
(c) the investigating officer’s resignation under section 1105G takes effect.	19 20
‘(2) Subsection (1) does not limit the ways an investigating officer for a local government may cease to hold office.	21 22
‘(3) In this section—	23
<i>condition of office</i> means a condition on which the investigating officer holds office.	24 25
‘1105G Resignation	26
‘An investigating officer may resign by signed notice given to the investigating officer’s appointing officer.	27 28

*Local Government and Other Legislation Amendment
Bill 2006*

‘1105H Return of identity card	1
‘A person who ceases to be an investigating officer must return the person’s identity card to the investigating officer’s appointing officer within 21 days after the person ceases to be an investigating officer, unless the person has a reasonable excuse.	2 3 4 5 6
Maximum penalty—10 penalty units.	7
‘1105I Impersonation of an investigating officer	8
‘A person must not pretend to be an investigating officer.	9
Maximum penalty—50 penalty units.	10
‘Subdivision 3 Investigations	11
‘1105J Making of inquiries for local government	12
‘(1) This section applies if the chief executive officer of a local government suspects or believes, on reasonable grounds, that information included in a register or return held by the local government is incorrect because of an error or omission.	13 14 15 16
‘(2) The chief executive officer, or, if directed by the chief executive officer, an investigating officer for the local government, may make all inquiries the chief executive officer considers to be reasonable to find out whether and to what extent the register or return is incorrect.	17 18 19 20 21
‘1105K Making of inquiries for department	22
‘(1) This section applies if the department chief executive suspects or believes, on reasonable grounds, that information included in a register or return held by a local government is incorrect because of an error or omission.	23 24 25 26
‘(2) Without limiting subsection (1), receiving a report under this division from the chief executive officer of the local government may provide reasonable grounds under subsection (1).	27 28 29 30

*Local Government and Other Legislation Amendment
Bill 2006*

- ‘(3) An investigating officer for the department, if directed by the department chief executive, may make all inquiries the chief executive considers to be reasonable to find out whether and to what extent the register or return is incorrect.

‘1105L Power to require information or document for local government investigation

- ‘(1) This section applies if the chief executive officer of a local government suspects or believes, on reasonable grounds, that—
- (a) either or both of the following applies—
- (i) information included in a register or return held by the local government is incorrect because of an error or omission;
- (ii) an offence against this Act has been committed in relation to a register or return; and
- (b) a person—
- (i) is able to give information about the error, omission or offence; or
- (ii) holds a document relating to the error, omission or offence.
- ‘(2) The chief executive officer, or, if directed by the chief executive officer, an investigating officer for the local government, may require the person to give the information or produce the document.
- ‘(3) When making the requirement, the chief executive officer or investigating officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.
- ‘(4) The person must comply with the requirement unless the person has a reasonable excuse.
- Maximum penalty—40 penalty units.
- ‘(5) If the person is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the

*Local Government and Other Legislation Amendment
Bill 2006*

information or producing the document might tend to incriminate the person.	1 2
‘(6) It is a defence in a prosecution under subsection (4) that the information or document sought by the chief executive officer or investigating officer is not relevant to the error, omission or offence.	3 4 5 6
‘(7) If the person produces a document to the chief executive officer or investigating officer, the chief executive officer or investigating officer—	7 8 9
(a) may keep the document to take an extract from it or make a copy of it; and	10 11
(b) must return the document to the person as soon as practicable after taking the extract or making the copy.	12 13
‘1105M Power to require information or document for department investigation	14 15
‘(1) This section applies if the department chief executive suspects or believes, on reasonable grounds, that—	16 17
(a) either or both of the following applies—	18
(i) information included in a register or return held by a local government is incorrect because of an error or omission;	19 20 21
(ii) an offence against this Act has been committed in relation to a register or return; and	22 23
(b) a person—	24
(i) is able to give information about the error, omission or offence; or	25 26
(ii) holds a document relating to the error, omission or offence.	27 28
‘(2) Without limiting subsection (1), receiving a report under this division from the chief executive officer of the local government may provide reasonable grounds under subsection (1).	29 30 31 32

*Local Government and Other Legislation Amendment
Bill 2006*

- ‘(3) The chief executive, or, if directed by the chief executive, an investigating officer for the department, may require the person to give the information or produce the document. 1
2
3
- ‘(4) When making the requirement, the chief executive or investigating officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse. 4
5
6
7
- ‘(5) The person must comply with the requirement unless the person has a reasonable excuse. 8
9
Maximum penalty—40 penalty units. 10
- ‘(6) If the person is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information or producing the document might tend to incriminate the person. 11
12
13
14
- ‘(7) It is a defence in a prosecution under subsection (5) that the information or document sought by the chief executive or investigating officer is not relevant to the error, omission or offence. 15
16
17
18
- ‘(8) If the person produces a document to the chief executive or investigating officer, the chief executive or investigating officer— 19
20
21
- (a) may keep the document to take an extract from it or make a copy of it; and 22
23
- (b) must return the document to the person as soon as practicable after taking the extract or making the copy. 24
25
- ‘1105N Referral to department 26**
- ‘(1) This section applies if, because of inquiries or requirements made under this subdivision by the chief executive officer of a local government or an investigating officer for a local government, the chief executive officer of the local government concludes on reasonable grounds that an offence has been committed under this Act in relation to a return or register. 27
28
29
30
31
32
33

*Local Government and Other Legislation Amendment
Bill 2006*

- ‘(2) The chief executive officer must report the chief executive officer’s conclusion, including the reasons for the conclusion, to the department chief executive. 1
2
3
- ‘(3) Subsection (2) does not limit any duty the chief executive officer may have under the *Crime and Misconduct Act 2001* to notify the CMC of any complaint, information or matter that the chief executive officer suspects involves, or may involve, official misconduct under that Act. 4
5
6
7
8

‘1105O Access to information in register 9

- ‘(1) To remove any doubt, it is declared that a relevant person acting under this division in relation to a register held by a local government is, for section 248(2)(c)(ii), a person permitted by law to have access to information in the register. 10
11
12
13
- ‘(2) In this section— 14
- relevant person* means— 15
- (a) the department chief executive; or 16
- (b) an investigating officer for the department; or 17
- (c) an investigating officer for the local government. 18

**‘Subdivision 4 Chief executive officer’s authority under div 11 19
20**

‘1105P Chief executive officer not subject to local government 21

‘The chief executive officer of a local government is not subject to direction by or the approval of the local government in acting under this division.’. 22
23
24

- Clause 55 Amendment of sch 2 (Dictionary) 25**
- Schedule 2— 26
- insert*— 27
- ‘*designated election offence* see section 1077A. 28

*Local Government and Other Legislation Amendment
Bill 2006*

financial controller, for a local government, means a person appointed under chapter 3, part 2, division 5 as a financial controller for the local government.’. 1
2
3

Part 3 **Amendment of City of Brisbane Act 1924** 4
5

Clause 56 **Act amended in pt 3** 6
This part amends the *City of Brisbane Act 1924*. 7

Clause 57 **Amendment of s 3A (Application of Local Government Act)** 8
Section 3A(2), ‘chapter 5, part 8’— 9
omit, insert— 10
‘chapter 5, parts 8 and 9’. 11
12

Clause 58 **Insertion of new s 39BA** 13
After section 39B— 14
insert— 15

‘39BA Recording of reasons for particular decisions 16

‘(1) This section applies if a decision made at a meeting— 17

(a) is inconsistent with a recommendation or advice given to the council by a person— 18
19

(i) who is an employee of the council or is otherwise engaged to provide services to the council; and 20
21

(ii) whose duties include giving the recommendation or advice; and 22
23

(b) either or both of the following apply to the decision— 24

*Local Government and Other Legislation Amendment
Bill 2006*

(i) the decision is about entering into a contract the total value of which is more than the greater of the following—	1 2 3
(A) \$150000;	4
(B) 1% of the council’s net rate and utility charges as stated in the council’s audited financial statements included in the council’s most recently adopted annual report;	5 6 7 8
(ii) the decision is inconsistent with—	9
(A) the policy or approach ordinarily followed by the council for the type of decision; or	10 11
(B) a policy previously adopted by the council by resolution, whether or not as required by this Act or the Local Government Act, and still in force.	12 13 14 15
<i>Examples of decisions to which subsection (1) might apply—</i>	16
• the grant of a licence, permit or approval, however named, under an Act or local law	17 18
• the grant of a concession, rebate or waiver in relation to an amount owed to the council	19 20
• disposing of land or a non-current asset	21
‘(2) The town clerk must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation or advice.	22 23 24
‘(3) In this section—	25
<i>meeting</i> means a meeting of—	26
(a) the council; or	27
(b) a committee of the council appointed from among its councillors.’.	28 29

*Local Government and Other Legislation Amendment
Bill 2006*

	Part 4	1
	Amendment of Electoral Act 1992	2
Clause 59	Act amended in pt 4	3
	This part amends the <i>Electoral Act 1992</i> .	4
Clause 60	Amendment of s 162 (Headline electoral advertisements)	5
	Section 162, penalty, ‘9 penalty units’—	6
	<i>omit, insert—</i>	7
	‘10 penalty units’.	8
Clause 61	Amendment of s 165 (Leave to vote)	9
	(1) Section 165, penalty, ‘9 penalty units’—	10
	<i>omit, insert—</i>	11
	‘10 penalty units’.	12
	(2) Section 165, penalty, ‘42 penalty units’—	13
	<i>omit, insert—</i>	14
	‘40 penalty units’.	15
Clause 62	Amendment of s 166 (Canvassing etc. in or near polling places)	16
	Section 166(1), penalty, ‘9 penalty units’—	17
	<i>omit, insert—</i>	18
	‘10 penalty units’.	19
Clause 63	Amendment of s 167 (Interrupting voting etc.)	20
	Section 167, penalty, ‘9 penalty units’—	21
	<i>omit, insert—</i>	22
	‘10 penalty units’.	23
		24

*Local Government and Other Legislation Amendment
Bill 2006*

Clause 64	Amendment of schedule (Election Funding and financial disclosure based on part XX of the Commonwealth Electoral Act)	1 2 3
	Schedule, section 304(4)—	4
	<i>insert—</i>	5
	‘(ba) for a gift made out of a trust account of a lawyer or accountant under the instructions of a person who is in substance the giver of the gift—the name and residential or business address of the person; and’.	6 7 8 9
Part 5	Amendment of Local Government (Community Government Areas) Act 2004	10 11 12
Clause 65	Act amended in pt 5	13
	This part amends the <i>Local Government (Community Government Areas) Act 2004</i> .	14 15
Clause 66	Amendment of s 11 (Provisions of Local Government Act 1993 that apply)	16 17
	Section 11(2), after second dot point—	18
	<i>insert—</i>	19
	• chapter 3, part 2, division 5 ⁵ .	20

5 *Local Government Act 1993*, chapter 3 (Interaction with the State), part 2 (Intervention by the State), division 5 (Financial controllers)