

Auckland Regional Amenities Funding Bill

Private Bill

As reported from the Local Government and
Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Auckland Regional Amenities Funding Bill and recommends that it be passed with the amendments shown.

Introduction

The Auckland Regional Amenities Funding Bill would establish a statutory framework for the secure and sustainable funding of the following organisations providing arts, educational, rescue, or other community facilities or services in the Auckland region:

- Auckland Observatory and Planetarium Trust Board
- Auckland Philharmonia
- Auckland Regional Rescue Helicopter Trust
- Auckland Theatre Company Limited
- Coastguard Northern Region Incorporated
- New Zealand National Maritime Museum Trust Board
- New Zealand Opera Limited

- Surf Life Saving Northern Region Incorporated
- The Auckland Festival Trust
- WaterSafe Auckland Incorporated.

In addition, the bill would enable the Auckland Zoo to receive funding, subject to its first being established as a separate entity.

To achieve its objectives, the bill sets out a mechanism for specified amenities to apply for and receive regional funding through a levy to be met collectively by the territorial authorities in the Auckland region, proposes an associated governance structure through the Electoral College and Auckland Regional Amenities Funding Board, and sets out criteria for the inclusion of new organisations in the funding regime.

This commentary discusses the main issues considered by the committee and explains the significant amendments we recommend to the bill. It does not address minor and technical amendments.

Current funding arrangements

We note with disappointment the apparent unfairness and inequity of current funding arrangements. The organisations covered by the bill are clearly organisations that serve the people of the region without bias, yet the local government contribution to their funding falls disproportionately on the ratepayers of Auckland City. We acknowledge the support that Auckland City Council has historically provided, and continues to provide, to these groups.

Submissions received

We received and considered 505 submissions, which expressed a range of views on the bill. Submitters fell into four main groups. Representatives and supporters of the amenities specified in the bill and other organisations involved in the funding of the amenities were strongly in favour of the bill. Representatives and supporters of other organisations wishing to be included as specified amenities also generally supported the bill, but wanted amendments to Schedule 1 to add other amenities.

The bill's supporters emphasise the need for Auckland to continue to have services and facilities of a certain standard to retain the city's character and international appeal. The organisations that will bene-

fit from the bill currently struggle to survive as they have little or no ongoing and sustainable income. This bill would provide financial security for these organisations, allowing them to plan ahead and to focus on service provision. Supporters regard the organisations that will benefit as regional, and as such appropriate candidates for funding from regional sources such as the territorial authorities named in the bill.

Apart from Auckland City Council, the local authorities and community boards in the Auckland region opposed the bill, as did various groups and individuals concerned about its potential impact on rates. While these councils praised the work of the various amenities included in the bill, they do not believe that funding should be derived from councils in the way the bill proposes. They suggested it would be more appropriate for the funding to come from the Auckland Regional Council, rather than the local councils, to make the funding more transparent for ratepayers.

Councils and submitters opposed to the bill also suggested that the requirement for councils to provide up to two percent of rates income to the levy fund would create financial hardship at a time when rates and other costs had become significant burdens on ratepayers.

Role of the Auckland Regional Council

We considered a proposal from the promoters that the bill be amended so that Auckland Regional Council (ARC) would be the agency to collect and distribute the funding levy, rather than another body set up for this specific purpose.

Under the Local Government Act 2002, the role of the ARC includes giving effect, in its region, to the purpose of enabling democratic local decision-making and promoting the social, economic, environmental, and cultural well-being of communities. To fulfil this purpose, the ARC can make and implement decisions about the funding of regional amenities. The ARC advised us that they have some concerns about the bill as introduced, and requested that decisions on the funding of regional amenities be deferred until the Royal Commission of Inquiry into Auckland Governance has reported.

We believe that there is merit in the proposal that the ARC adopt a more active role in the funding of regional amenities, and we note that this view was expressed by a number of submitters. However,

we were advised that an amendment to substitute the ARC as the collecting agency is outside the scope of the bill, as determined by the public notice of intention to introduce this private bill; we therefore do not recommend any substantive amendments to the processes and mechanisms for the collection and distribution of the funding levy.

Royal Commission of Inquiry on Auckland Governance

The Royal Commission of Inquiry is due to report by 1 December 2008 on the regional and local governance arrangements needed in the Auckland region in the foreseeable future. The inquiry has broad terms of reference which could result in recommendations that would affect the funding of regional amenities.

The ARC and some other submitters suggested that it would be advisable to consider funding arrangements for regional organisations in the context of the wider changes to local government that may follow the Royal Commission.

However, we recognise that it is uncertain when the recommendations of the Royal Commission may be implemented, and whether a timely solution can be found for the funding difficulties faced by all the specified amenities. We believe that this bill is needed to ensure the continued existence of the amenities.

Funding mechanisms

The bill's proposal for regional funding and associated governance mechanisms is based on equivalent provisions in the Auckland War Memorial Museum Act 1996, and the Museum of Transport and Technology Act 2000.

While the bill's proposed Electoral College and funding board structure sits outside the framework and processes of the Local Government Act 2002, we believe that there is sufficient commonality between aspects of the structure and the Act's processes to ensure appropriate consultation, reporting, and accountability.

Each territorial authority in the Auckland region would be levied on the basis of their rates in the previous financial year as a proportion of the total rates for all the territorial authorities in the Auckland region for that year. Although the funding formula in the bill could

lead to territorial authorities increasing rates, or diverting funding from existing priorities, we believe that these concerns are balanced by the security that statutory funding would offer the specified amenities. The bill caps the maximum amount of the levy at no more than two percent of the territorial authorities' combined rates revenue in the previous financial year. We consider this cap would provide an appropriate safeguard.

Revenue from rates

The funding formula in the bill requires the calculation of each contributing authority's adjusted revenue and total adjusted revenue. Some submitters suggested that this would raise an equity issue for those councils whose water and wastewater are charged using non-rates mechanisms, and who would therefore pay a proportionately smaller levy than councils who include water and wastewater in their rates.

Accordingly, we recommend that the definition of "revenue from rates" in clause 4 be amended to exempt any targeted rate, or the part of the revenue from any general rate, that is to be applied to the provision of water or wastewater services.

Administrative bodies

Two key administrative bodies, the Auckland Regional Amenities Funding Board, and the Amenities Board, would be established under Part 2 of the bill. We believe there should be a clear and strong link between the bill's purpose, the activities of the administrative bodies, and the funding application process and criteria, to ensure a focus on the well-being of the Auckland region, to contribute towards making Auckland a vibrant and attractive place to live in and visit, and to ensure that all territorial authorities in the region are part of the funding mechanism and so contribute to the funding of the specified amenities. We therefore recommend the insertion of new clause 4A, which requires the funding board and amenities board to act in accordance with the purpose of the bill when performing their functions and duties and exercising their powers.

We note that the bill as introduced does not specify how Māori interests will be represented. We believe it would be desirable for the bill to provide for Māori representation on the funding board, and

therefore recommend the insertion of new clause 6(3A). Under this clause, one of the six members appointed by the Electoral College to the funding board must be appropriate to represent Māori interests in the Auckland region.

Addition and removal of specified amenities

Clauses 17 and 18 set out the processes by which the Electoral College would decide that a new amenity should be added to the list of specified amenities, or an existing amenity should be suspended or deleted. A notice of decision, which would have the status of a regulation, to add or remove a specified amenity would be required under clause 19 of the bill.

We received advice from the Regulations Review Committee that the addition or removal of a specified amenity should occur only through amendment to the principal Act. While we acknowledge the concerns of the Regulations Review Committee, we are satisfied that the processes in the bill are appropriate to the bill's purpose and objectives. The local focus of the bill and the need to provide long-term flexibility for changing specified amenities mean that it is desirable to have a relatively quick and simple mechanism, as provided in the bill. We note, too, that there are similar mechanisms, which allow schedules to be amended by Order in Council, in other local and private legislation.¹

Administrative provisions for funding board

The administrative provisions for the funding board are contained in schedule 4 of the bill. Clause 1 of the schedule states explicitly that the funding board is not a council-controlled organisation for the purposes of the Local Government Act 2002. We note the view of the bill's promoters that the specialist role of the board requires tailor-made accountability provisions, and that its composition has been designed to achieve an appropriate balance between the specified amenities and the territorial authorities. The promoters do not believe it would be appropriate for territorial authorities to exercise

¹ For example, the Waitakere Ranges Heritage Area Act 2008, the Anglican Church Trusts Act 1981, and the Marlborough Harbour Act 1958.

control over the board by means of a statement of intent or other Local Government Act 2002 mechanism.

Clause 6 of schedule 4 sets out the circumstances where a board member's appointment would cease and an extraordinary vacancy be created. Under clause 6(1)(k) of the bill as introduced, an extraordinary vacancy would be created if the member became subject to a compulsory treatment order under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992. The Attorney-General advised us that this clause appears to be inconsistent with section 5 of the New Zealand Bill of Rights Act 1990, because the bill does not provide any opportunity for a member to resume his or her membership of the board once the compulsory treatment order has ended. Therefore, we recommend that clause 6(1)(k) be deleted.

In the bill as introduced, the funding board is required to decide the remuneration for its members. We consider it inappropriate for the funding board to set the pay for its own members. Accordingly, we recommend amendments to clause 10 of schedule 4 to provide more accountability and transparency on remuneration matters. We recommend providing for the funding board to make recommendations on the appropriate amount to pay its members. The Electoral College would then be required to approve the remuneration for funding board members at an appropriate level, having regard to the public purpose of the funding board's functions and the extent of public funding of its operations.

National Party minority view

The background to this bill is the significant deficiencies in the structure of local government in Auckland, which does not provide effectively for the provision of Auckland-wide community services. As a consequence, the funding for a number of important public services covering rescue, water safety, arts, and heritage are in funding crisis. National considers that the bill does not provide a long-term mechanism for funding these services. The bill imposes a rate by Central Government legislation, which overrides the normal process of local government being accountable for their rates.

The right answer to these problems lies in the reform of Auckland's local government structures and that is why we have supported the Royal Commission on Auckland Governance.

The reality is that any reforms arising from the Royal Commission are some years away and that some interim funding mechanism is required to ensure these amenities and services survive. That is why National is supporting this bill only as an interim response.

National will only support the bill beyond a second reading on the basis that there is a clear sunset clause no later than 1 July 2012. Such funding mechanisms are not good public policy and National does not wish this arrangement to have any permanence on New Zealand's statute books. Other parties on the committee did not have time to consider this matter in their caucuses.

Appendix

Committee process

The Auckland Regional Amenities Funding Bill was referred to the committee on 19 September 2007. The closing date for submissions was 5 November 2007. We received and considered 505 submissions from interested groups and individuals. We heard 38 submissions. Evidence was heard in Auckland.

We received advice from the promoters of the bill, Auckland Regional Council, and the Department of Internal Affairs. The Regulations Review Committee reported to the committee on the powers contained in clauses 17, 18, and 19.

Committee membership

Moana Mackey (Chairperson) (from 7 November 2007)

John Carter (Deputy Chairperson)

Hon David Benson-Pope (from 7 November 2007)

Mark Blumsky (until 30 July 2008)

Hon Mark Burton (from 7 November 2007 until 2 April 2008)

Hon Steve Chadwick (until 7 November 2007)

Jacqui Dean

Russell Fairbrother (until 7 November 2007)

Martin Gallagher (until 7 November 2007)

Hon Marian Hobbs

Dr Russel Norman (from 1 July 2008)

Su'a William Sio (from 2 April 2008)

Hon Dr Nick Smith

Mētīria Turei (until 1 July 2008)

Nicky Wagner (from 30 July 2008)

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Judith Tizard

Auckland Regional Amenities Funding Bill

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Preamble

- (1) Several arts, educational, rescue, and community organisations that are vital to the Auckland region contribute to the well-being of the whole region by providing facilities or services to the community:
- (2) The organisations are an essential part of the fabric of the Auckland region and are necessary to make the region a vibrant and attractive place to live in and visit:

5

- (3) A significant proportion of those who visit or use, or otherwise benefit from, the organisations come from all the territorial authority districts in the Auckland region:
- (4) The organisations currently receive their funding from a range of sources by way of grants made in response to annual or periodic applications. In particular, they make separate applications to each of the territorial authorities and various trusts for funding. The grants resulting from applications are often ad hoc and short term: 5
- (5) This process does not provide a secure funding stream for the organisations and it does not necessarily result in all the territorial authorities in the Auckland region making a contribution to the organisations' funding: 10
- (6) A statutory framework is needed to provide adequate and secure funding for the organisations by all the territorial authorities in the Auckland region: 15
- (7) The existing statutory frameworks for regional funding of the Auckland War Memorial Museum and the Museum of Transport and Technology provide a model for the funding of the organisations: 20
- (8) Territorial authorities funding the organisations should have a formal role, through the Electoral College, in the decisions on funding:

The Parliament of New Zealand therefore enacts as follows:

- 1 Title** 25
This Act is the Auckland Regional Amenities Funding Act **2007**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 30

Part 1 Preliminary provisions

3 Purposes

- (1) The first purpose of this Act is to establish a mechanism to provide adequate, sustainable, and secure funding for specified amenities that, by providing arts, education, rescue, or community facilities for or services to the Auckland region,—
- (a) contribute to the well-being of the region; and
 - (b) contribute towards making Auckland a vibrant and attractive place to live in and visit.
- (2) The second purpose is to ensure that all the territorial local authorities in the Auckland region are part of the mechanism and so contribute towards the funding of the specified amenities.

4 Interpretation

In this Act, unless the context otherwise requires,—

adjusted revenue from rates means the revenue from rates of a contributing authority multiplied by the differential factor shown opposite the contributing authority's name in **Schedule 3**

advisory officer means the advisory officer appointed under **clause 12 of Schedule 4**

Amenities Board means the Amenities Board established by **section 10**

assessment criteria means the assessment criteria in **section 13(1)**

Auckland region means the region of the Auckland Regional Council

contributing authority means a territorial authority listed in the first column of **Schedule 3**

district means,—

- (a) for the Franklin District Council, that part of the district within the Auckland region; and
- (b) for every other contributing authority, the district of the contributing authority

- Electoral College** means the Electoral College of territorial ~~local~~ authority representatives established by section 13(1) of the Auckland War Memorial Museum Act 1996
- establishment day** means the day 28 days after this Act comes into force 5
- financial year** means the period starting on 1 July and ending with 30 June in the following year that is the financial year of the Funding Board
- first financial year** means the first full financial year after the commencement of this Act 10
- fourth financial year** means the financial year after the third financial year
- Funding Board** means the Auckland Regional Amenities Funding Board established by **section 5**
- funding principles** means the funding principles in **section 20** 15
- Local Government Commission** means the Local Government Commission appointed under the Local Government Act 2002
- long term plan**— 20
- (a) means a specified amenity’s long term plan described in **section 21**; and
- (b) if the plan has been amended, means the plan as amended
- public notice** means a notice published in 1 or more newspapers circulating in the Auckland region 25
- reorganisation scheme** has the meaning given to it by section 5 of the Local Government Act 2002
- revenue from rates** means revenue from all rates set under the Local Government (Rating) Act 2002 except— 30
- (aa) the part of the revenue from any general rate set under section 13 of that Act that is to be applied to the provision of water supply or wastewater services; and
- (ab) any targeted rate for the provision of water or wastewater services set under section 16 of that Act; and 35
- (a) any targeted rate for water supply set under section 19 of that Act; and

- (b) in the case of the Franklin District Council, any rate set in respect of land outside the Auckland region

second financial year means the financial year after the first financial year

specified amenity—

- (a) means an organisation listed in **Schedule 1**; and
 (b) includes an organisation that is the subject of a notice under **section 17** that has come into force under **section 19(3)**; and

- (c) does not include an organisation described in **paragraph (a) or (b)** that is the subject of a notice under **section 18(6)** that has come into force under **section 19(3)**

third financial year means the financial year after the second financial year.

Part 2

Funding mechanism

Subpart 1—Administrative bodies

- 4A** **Funding Board and Amenities Board and purpose of Act**
In performing their functions and duties, and exercising their powers, under this Act, the Funding Board and the Amenities Board must act in accordance with the purpose of the Act set out in **section 3(1)**.

Funding Board

- 5** **Establishment**
 This Act establishes the Auckland Regional Amenities Funding Board.

- 6** **Membership**
- (1) The Funding Board has 10 members.
- (2) The Electoral College appoints ~~5~~ 6 members.
- (3) The Amenities Board appoints ~~5~~ 4 members.
- (3A)** One of the members appointed by the Electoral College must be a person who, in the opinion of the Electoral College, is

appropriate to represent the interests of Māori in the Auckland region.

- (4) The members must be persons who have the management skills, experience, and professional judgment necessary to do the Funding Board's functions, in the opinion of those appointing them. 5
- (5) The following persons must not be appointed as members:
- (a) a person who is currently an elected or appointed member of a contributing authority; or
 - (b) the chief executive of a contributing authority; or 10
 - (c) an employee of a contributing authority; or
 - (d) a current board member of a specified amenity; or
 - (e) a current officer or employee of a specified amenity.

7 Charitable purposes

- (1) The Funding Board is established exclusively for charitable purposes within New Zealand. 15
- (2) Every action that the Funding Board does under this Act is done exclusively for charitable purposes within New Zealand.
- (3) Every business that the Funding Board carries on under this Act is carried on exclusively for charitable purposes within New Zealand. 20
- (4) No business that the Funding Board carries on under this Act is carried on for the pecuniary gain of any person.

8 Powers

For the purpose of performing its functions under this Act, the Funding Board— 25

- (a) has all the necessary rights, powers, and privileges; and
- (b) may exercise all the necessary rights, powers, and privileges; and
- (c) may incur all necessary liabilities and obligations. 30

9 Administration

The administrative provisions applying to the Funding Board are in **Schedule 4**.

*Amenities Board***10 Amenities Board**

This Act establishes the Amenities Board.

11 Function

- (1) The Amenities Board's function is to make the appointments to the Funding Board required by **section 6(3)**. 5
- (2) The Amenities Board must make the appointments by majority vote.
- (3) If the votes are equal, the person presiding has a casting vote as well as a deliberative vote. 10
- (4) The person whom the members elect as chairperson must preside at all meetings of the Amenities Board at which he or she is present. If he or she is absent from a meeting, the members present must appoint one of their number to be the chairperson of the meeting. 15
- (5) The quorum of the Amenities Board is—
- (a) half of the members if the number of members is even; or
- (b) a majority of members if the number of members is odd.
- (6) The Amenities Board may do its function even if there is a vacancy in its membership. 20
- (7) The Amenities Board must comply with **subsections (2) to (6)**, but otherwise regulates its own proceedings.

12 Membership

- (1) Every specified amenity must appoint 1 representative to the Amenities Board. 25
- (2) An appointment as a specified amenity's representative ends when the amenity or the representative ends the appointment.
- (3) When an appointment as a specified amenity's representative ends, the amenity must appoint another representative. 30

Subpart 2—Specified amenities

*Assessment criteria***13 Assessment criteria**

- (1) The assessment criteria that the Funding Board and the Electoral College apply under **sections 16 to 18** are as follows: 5
- (a) whether funding the organisation meets the purposes of this Act; and
 - (b) whether the organisation provides its facilities or services to residents of and visitors to the Auckland region; and 10
 - (c) whether the facilities or services that the organisation provides to residents of and visitors to the Auckland region are facilities or services that are not otherwise generally available; and
 - (d) whether the residents of the Auckland region visit or use, or otherwise benefit from, the organisation; and 15
 - (e) whether, according to independent market research, the residents of the Auckland region perceive the organisation as a regional one; and
 - (f) whether the organisation has proper governance and management structures; and 20
 - (g) whether the organisation has structures for ensuring that any funding provided to it under this Act is used predominantly for the organisation's facilities or services; and 25
 - (h) whether the organisation has operated within a properly prepared budget, annual business plan, and long-term plan over the 5 years immediately before the date on which the Funding Board or the Electoral College applies this criterion; and 30
 - (i) whether the organisation has audited financial accounts covering the 5 years immediately before the date on which the Funding Board or the Electoral College applies this criterion; and
 - (j) whether the organisation is a registered charitable entity under the Charities Act 2005. 35
- (2) The Funding Board must monitor the specified amenities' compliance with the assessment criteria.

14 Discretion in application of assessment criteria

The Funding Board and the Electoral College each has an absolute discretion in deciding—

- (a) whether or not an organisation satisfies an assessment criterion; and 5
- (b) the extent to which an organisation satisfies an assessment criterion.

*Procedure***15 Organisation applies to be specified amenity**

- (1) The Electoral College may invite organisations to apply to be a specified amenity. 10
- (2) The invitation must be given by public notice.
- (3) The public notice may require that applications be made only—
 - (a) by a particular type of arts, educational, rescue, or community organisation; or 15
 - (b) on terms that the Electoral College considers appropriate.
- (4) An application must—
 - (a) be in the form that the Electoral College specifies in the notice; and 20
 - (b) contain, or be accompanied by, any information that the Electoral College specifies in the notice.

16 Funding Board assesses application

- (1) The Funding Board must assess every application that the Electoral College receives under **section 15**. 25
- (2) The Funding Board's procedure for doing its assessments—
 - (a) must be determined by it; and
 - (b) may include hearing an applicant in person.
- (3) The Funding Board must give the Electoral College, in writing or electronically,— 30
 - (a) its assessment of whether an applicant satisfies—
 - (i) the requirements in the public notice, if there were any; and
 - (ii) the assessment criteria; and 35

- (b) its recommendation on whether the applicant should or should not be a specified amenity; and
- (c) its reasons for its assessment and recommendation.
- 17 Electoral College decides whether organisation to be specified amenity** 5
- The Electoral College must—
- (a) receive the Funding Board’s assessment and recommendation under **section 16**; and
- (b) apply the assessment criteria; and
- (c) decide whether an applicant is to be a specified amenity; and 10
- (d) if an applicant is to be a specified amenity, give a notice ~~under~~ as described in section 19.
- 18 Electoral College decides whether organisation to be suspended or cease to be specified amenity** 15
- (1) This section applies if the Funding Board considers that a specified amenity no longer satisfies 1 or more of the assessment criteria.
- (2) The Funding Board may give a notice to the specified amenity requiring it to satisfy the criterion or criteria within such reasonable period as the ~~board~~ Board specifies. 20
- (3) The Funding Board must provide an opportunity for the amenity to be heard in relation to any notice before deciding that the amenity should be suspended or cease to be a specified amenity. 25
- (4) If the specified amenity does not satisfy the criterion or criteria within the period specified by the Funding Board, the Funding Board may give the Electoral College, in writing or electronically,—
- (a) its recommendation on whether the ~~applicant~~ specified amenity should be suspended from being or cease to be a specified amenity; and 30
- (b) its reasons for its recommendation.
- (5) The Electoral College must—
- (a) receive the Funding Board’s recommendation; and 35
- (b) apply the assessment criteria; and

- (c) decide whether the specified amenity should be suspended from being or cease to be a specified amenity.
- (6) If the Electoral College decides that a specified amenity listed in **Schedule 1** should cease to be a specified amenity, the following provisions apply: 5
- (a) the Electoral College must request the Minister of Local Government to recommend to the Governor-General the making of an Order in Council amending **Schedule 1** by removing the name of the amenity; and
- (b) on receiving the request, the Minister may make the recommendation; and 10
- (c) on receiving the recommendation, the Governor-General may make the Order in Council; and
- (d) on the making of the Order in Council, the Electoral College must give notice ~~under~~ as described in section 19 that the amenity is no longer a specified amenity. 15
- (7) If the Electoral College decides that a specified amenity not listed in **Schedule 1** should cease to be a specified amenity, it must give notice ~~under~~ as described in section 19 that the amenity is no longer a specified amenity. 20

19 Notices

- (1) The Electoral College gives a notice under **section 17 or 18** by publishing it in the *Gazette*.
- (2) The Electoral College must— 25
- (a) notify the notice; and
- (b) send a copy of the notice to each of the contributing authorities and the Amenities Board; and
- (c) make copies of the notice available for inspection by members of the public free of charge.
- (3) A notice given under **section 17 or 18** comes into force— 30
- (a) 28 days after the date of the notice's publication in the *Gazette*; or
- (b) a later date specified in the notice.
- (4) A notice given under **section 17** that an organisation is a specified amenity lasts until a notice is given under **section 18** that the specified amenity is ~~to cease to be~~ no longer a specified amenity. 35

- (5) A notice given under **section 17 or 18** is a regulation for the purposes of the Interpretation Act 1999, the Acts and Regulations Publication Act 1989, and the Regulations (Disallowance) Act 1989.

Subpart 3—Funding process 5

Funding principles

20 Funding principles

- (1) The funding principles to which the Funding Board and the Electoral College must have regard under **sections 23 and 27** are as follows: 10
- (a) the primary purpose of the funding is to contribute to the expenses that the specified amenity must incur to provide its facilities or services; and
 - (b) funding is not available for capital expenditure; and
 - (c) funding is not available for any part of facilities or services that the specified amenity provides outside the Auckland region; and 15
 - (d) funding is not available for facilities or services that at any time in the 5 years immediately before the date on which the Funding Board or the Electoral College applies this paragraph have been provided funding by— 20
 - (i) a Crown entity, as defined in section 7(1) of the Crown Entities Act 2004; or
 - (ii) a department specified in Schedule 1 of the State Sector Act 1988; and 25
 - (e) funding for the retention and preservation of a specified amenity’s library or collection takes priority over the amenity’s other expenses; and
 - (f) funding is available only if the specified amenity has made all reasonable endeavours to maximise its funding from other available funding sources; and 30
 - (g) total funding for all specified amenities assessed for a financial year must not exceed the maximum total levy for that year under **section 33**; and
 - (h) any other funding principle that the Electoral College publicly notifies under **subsection (3)**. 35

- (2) The Funding Board may recommend to the Electoral College that it add funding principles to those in **subsection (1)**.
- (3) The Electoral College—
- (a) may receive a recommendation from the Funding Board; and 5
 - (b) with or without a recommendation, may add funding principles; and
 - (c) must give public notice of the added funding principles.

Funding applications

- 21 Specified amenity may prepare long-term plan** 10
- (1) A specified amenity may—
- (a) prepare a plan covering a period of at least 5 years and at most 10 years; and
 - (b) send the plan to the Funding Board.
- (2) The Funding Board may consider and approve the plan. 15
- (3) The Funding Board’s approval of a plan is not a commitment by the Funding Board to provide funding for anything in the plan.
- 22 Specified amenity applies for funding**
- (1) This section applies if a specified amenity seeks funding from the Funding Board for a financial year. 20
- (2) The specified amenity must apply to the Funding Board on or before 30 November in the year before the financial year for which funding is sought.
- (3) The application must include— 25
- (a) a statement of the amount of funding that the specified amenity seeks from the Funding Board for the financial year; and
 - (b) any information that the Funding Board requires to assess the specified amenity’s satisfaction of the assessment criteria currently and in the future; and 30
 - (c) a statement of how the application complies with the funding principles; and
 - (d) the specified amenity’s annual plan for the financial year for which funding is sought prepared under **subsections (4) and (5)**. 35

- (4) The specified amenity’s annual plan must state the following matters:
- (a) the specified amenity’s purpose; and
 - (b) the specified amenity’s objectives; and
 - (c) the performance targets and other measures by which to assess the specified amenity’s achievement of the objectives; and 5
 - (d) the nature and scope of the facilities or services to be provided by the specified amenity; and
 - (e) the indicative costs of the activities; and 10
 - (f) the sources of funds for the activities; and
 - (g) the details of any charges that the specified amenity proposes to make for the facilities or services.
- (5) The plan must state the matters—
- (a) in particular terms for the financial year for which funding is sought; and 15
 - (b) in general terms for each of the following 2 financial years.
- 23 Funding Board assesses application** 20
- (1) The Funding Board must—
- (a) assess an application made by a specified amenity under **section 22**; and
 - (b) decide provisionally on the amount of funding to be provided to the specified amenity.
- (2) The Funding Board may request more information from the specified amenity for the purpose of making its assessment and provisional decision. 25
- (3) The Funding Board need not include a specified amenity in the funding plan prepared under **section 24** if the amenity does not give the Board the requested information by— 30
- (a) 30 November in the year before the financial year for which funding is sought; or
 - (b) a later time that the Board specifies.
- (4) In making its assessment and provisional decision, the Funding Board must have regard to— 35
- (a) the funding principles; and
 - (b) the specified amenity’s long term plan, if it—

- (i) includes the financial year for which funding is sought; and
- (ii) has been approved under **section 21**.

Funding plans

- 24 Funding Board prepares draft funding plan** 5
- (1) The Funding Board must prepare a draft funding plan for every financial year.
 - (2) The draft funding plan must state the following matters for the financial year:
 - (a) the nature of the facilities or services to be provided by each specified amenity; and 10
 - (b) the funding sought by each specified amenity; and
 - (c) the amount of funding that the Funding Board proposes to grant to each specified amenity; and
 - (d) any conditions that the Funding Board proposes to impose on the provision of funding to a particular specified amenity; and 15
 - (e) the maximum amount of remuneration payable by the Funding Board to its members; and
 - (f) the maximum amount of remuneration payable by the Funding Board to its advisory officer; and 20
 - (g) the maximum amount of the Board's reasonable administrative costs; and
 - (h) the total levy that the Funding Board proposes, which may not exceed the maximum total levy calculated under **section 33**; and 25
 - (i) any other information that is necessary to enable an informed assessment of the total levy that the Funding Board proposes.
 - (3) The draft funding plan must state the matters— 30
 - (a) in particular terms for the financial year to which the plan relates; and
 - (b) in general terms for each of the following 2 financial years.
 - (4) The Funding Board must include in the draft funding plan an explanation of any significant changes between the total levy 35

it proposes and the levy specified in the plan adopted for the immediately preceding financial year.

25 Funding Board and Electoral College confer over draft funding plan

- (1) The chairpersons of the Funding Board and the Electoral College must decide jointly— 5
- (a) whether a meeting of the Electoral College is to be held to consider—
- (i) the matter of the total levy that the Board proposes in its draft funding plan; or 10
- (ii) any other matter in the plan; and
- (b) if a meeting is to be held, whether it is to be held jointly with the Board or separately from it.
- (2) Every meeting of the Electoral College to consider a matter must be held before the draft funding plan is published under **section 26(1)(a)**. 15

26 Funding Board consults on draft funding plan

- (1) When the Funding Board is satisfied with its draft funding plan, it must, as soon as is practicable,—
- (a) publicly notify it; and 20
- (b) send it to the Electoral College, the specified amenities, and the contributing authorities.
- (2) The Electoral College, a specified amenity, or any other person may make a written or electronic submission to the Funding Board on any matter in the draft funding plan within 1 month after the day on which the plan is publicly notified. 25
- (3) A contributing authority—
- (a) may make a written or electronic submission to the Funding Board on any matter in the draft funding plan within 1 month after the day on which the draft plan is publicly notified; and 30
- (b) must send a copy of the submission to the Electoral College.
- (4) The Funding Board must give a reasonable opportunity to every person who makes a submission to appear and be heard on the submission. 35

- (5) Meetings of the Funding Board, or a committee of the Funding Board, to hear submissions on the draft funding plan must be open to the public.
- (6) The Funding Board must—
- (a) consider the submissions; and 5
 - (b) make any modifications to the draft funding plan that the Board considers appropriate in light of the submissions; and
 - (c) refer the plan to the Electoral College; and
 - (d) request the Electoral College's approval of the Board's recommendation on the total levy. 10

27 Electoral College considers funding plan

The Electoral College must—

- (a) consider the Funding Board's recommendation on the total levy; and 15
- (b) decide whether or not to approve the recommended total levy, having regard to the funding principles; and
- (c) advise the Funding Board of its decision.

28 If Electoral College does not approve levy

- (1) This section applies if the Electoral College decides not to approve the recommended total levy under **section 27(b)**. 20
- (2) The dispute must be referred to an independent arbitrator.
- (3) The arbitrator must be appointed by—
- (a) the Electoral College and the Funding Board jointly; or
 - (b) if they are unable to agree on the appointment, the Local Government Commission appointed under the Local Government Act 2002. 25
- (4) The arbitrator must—
- (a) take into account the submissions of the Funding Board and the Electoral College; and 30
 - (b) take into account the Funding Board's duties; and
 - (c) decide on the total levy, which may not exceed the maximum total levy calculated under **section 33**.
- (5) The total levy that the arbitrator decides on is the total levy to be used by the Funding Board for the purpose of fixing the individual levies under **section 34**. 35

- (6) The Funding Board must reconsider its draft funding plan and the amount of funding it provisionally decided to provide to each specified amenity to take account of the total levy that the arbitrator decides on.

29 Funding Board adopts funding plan 5

- (1) The Funding Board must have a meeting to deliberate on and adopt its funding plan.
- (2) The meeting—
- (a) must be open to the public; and
 - (b) must be held no later than 30 April immediately before the start of the financial year to which the plan relates. 10
- (3) Within 20 working days of adopting the funding plan, the Funding Board must—
- (a) make a copy available for public inspection; and
 - (b) give public notice that a copy is available for public inspection; and 15
 - (c) send a copy to each contributing authority and each specified amenity.

First financial year

30 Individual payments for first financial year 20

- (1) The Funding Board must pay each specified amenity the amount shown opposite the amenity's name in **Schedule 2** for the first financial year.
- (2) However, the Funding Board must not pay the amount to Auckland Zoo unless **section 42** applies before 1 July in the first financial year. 25
- (3) The Funding Board must be paid \$300,000 for its administrative costs for the first financial year.
- (4) **Sections 21 to 29** do not apply in respect of the first financial year. 30

31 Individual levies for first financial year

- (1) The Funding Board must calculate the individual levy of each contributing authority for the first financial year using the formula—

$$\frac{\text{adjusted revenue}}{\text{total adjusted revenue}} \times \text{total amount}$$

- (2) The items in the formula are defined in **subsections (3) to (5)**.
- (3) **Adjusted revenue** means the adjusted revenue from rates of the contributing authority in the previous financial year.
- (4) **Total adjusted revenue** means the total adjusted revenue from rates of all contributing authorities in the previous financial year. 5
- (5) **Total amount** means the total amount to be paid under **section 30(1) to (3)**.

32 Contributing authorities pay levies for first financial year 10

- (1) This section applies to the individual levy of each contributing authority for the first financial year.
- (2) The contributing authority must pay the amount of the levy—
 - (a) out of its general revenues; and
 - (b) to the Funding Board; and 15
 - (c) on the next 1 July after the commencement of this Act.

Funding levies

33 Maximum individual and total levies for financial years after first financial year

- (1) The Funding Board must calculate the maximum individual levy of each contributing authority for each financial year after the first financial year using the formula— 20

$$\frac{\text{adjusted revenue}}{\text{total adjusted revenue}} \times \text{maximum total levy of contributing authorities}$$

- (2) The items in the formula are defined in **subsections (3) to (5)**.
- (3) **Adjusted revenue** means the adjusted revenue from rates of the contributing authority in the previous financial year. 25
- (4) **Total adjusted revenue** means the total adjusted revenue from rates of all contributing authorities in the previous financial year.

- (5) **Maximum total levy of contributing authorities** is,—
- (a) for the second financial year,—
 - (i) if **section 42** applies as at the specified date, \$16 million; or
 - (ii) if **section 42** does not apply as at the specified date, \$12 million; and
 - (b) for the third financial year,—
 - (i) if **section 42** applies as at the specified date, \$19 million; or
 - (ii) if **section 42** does not apply as at the specified date, \$15 million; and
 - (c) for the fourth financial year and each following financial year, the amount equal to 2% of the total adjusted revenue from rates of all the contributing authorities in the previous financial year.
- (6) In **subsection (5)**, **specified date** means 30 November in the year immediately before the financial year for which the maximum total levy is being calculated.
- (7) For each financial year after the first financial year, the individual levy of each contributing authority must bear the same proportion to the total of the individual levies of all the contributing authorities as the maximum individual levy of that contributing authority bears to the maximum total levy of the contributing authorities.
- 34 Funding Board resolves to fix individual levies**
- (1) This section applies when the Funding Board has the following for a financial year after the first financial year:
 - (a) either—
 - (i) the Electoral College’s approval of the total levy; or
 - (ii) the arbitrator’s decision on the total levy; and
 - (b) an adopted funding plan.
 - (2) The Funding Board must—
 - (a) fix the amounts of the individual levies of each contributing authority by way of resolution; and
 - (b) send a copy of the resolution to each contributing authority.

- (3) The Funding Board must comply with **subsection (2)** on or before 30 April before the financial year for which the levy is imposed.

35 Contributing authorities pay levies for financial years after first financial year 5

- (1) This section applies to the individual levy of each contributing authority fixed in the resolution of the Funding Board under **section 34(2)**.

- (2) The contributing authority must pay the amount of the levy—
- (a) out of its general revenues; and 10
 - (b) to the Funding Board; and
 - (c) on the next 1 July after the resolution.

36 If contributing authority's district altered changes

- (1) This section applies if a contributing authority's district is altered because any of the following events occurs: 15

- (a) the total or partial absorption of the district by another local authority, whether or not the local authority is a contributing authority; or
- (b) the contributing authority absorbing all or part of another local authority's district, whether or not the local authority is a contributing authority; or 20
- (c) the amalgamation of a contributing authority with another local authority, whether or not the local authority is a contributing authority; or
- (d) the division of a contributing authority into 2 or more local authorities. 25

- (2) If any of the events occurs a contributing authority's district changes because an Order in Council gives effect to a reorganisation scheme,—

- (a) the area that was previously subject to a levy under this Act continues to be subject to a levy; and 30
- (b) the previously applicable differential factor continues to apply for the purpose of calculating the adjusted revenue from rates in respect of the land in that area.

- (3) However, **subsection (2)** does not apply if any of **subsections (4) to (8)** applies. 35

- (4) ~~The~~ If a result of the Order in Council is that a contributing authority absorbs an area from another contributing authority, the Funding Board—
- (a) must apply the differential factor applicable to the absorbing contributing authority to ~~an area absorbed from another contributing authority~~ the area absorbed; and
- (b) must do so for the year after the absorption and all later years.
- (5) ~~The Funding Board must not take any account of the fact that the occurrence of an event may result in part only of the district of a local authority being levied.~~
- (5A) If a result of the Order in Council is that part only of the district of a local authority is levied, the Funding Board must not take any account of that result.
- (6) The Funding Board is not authorised by **subsection (4) or (5A)** to impose a levy on an area that is outside the contributing authorities' districts when this Act comes into force.
- (7) ~~**Subsection (8)** applies when the Local Government Commission is exercising its jurisdiction over the constitution, alteration, union, or abolition of a territorial authority's district.~~
- (8) The Local Government Commission may—
- (a) review the effect of **subsections (4) and (5) (5A)** on the ~~matter before it~~ territorial authorities involved; and
- (b) if the Commission considers it appropriate, make a decision that—
- (i) has an effect different from the effect that the subsections have; and
- (ii) applies for the period that the Commission considers appropriate.

Funding payments

37 Funding Board pays funding

- (1) This section applies to the funding payable to a specified amenity under the Funding Board's approved funding plan for a financial year.
- (2) The Funding Board must—
- (a) pay the funding to the specified amenity; and

- (b) do so as soon as is practicable after 12 July and no later than 15 August in the year; and
- (c) tell the specified amenity, in writing or electronically, about any conditions in the approved funding plan on the provision of funding. 5

Subpart 4—Reporting

38 Specified amenity does annual report

- (1) This section applies to a specified amenity that has received or is receiving funding under this Act for a financial year.
- (2) The specified amenity must prepare a report that— 10
 - (a) assesses the amenity’s application of the funding against the matters specified in the amenity’s annual plan for the year under **section 22(4)**; and
 - (b) contains financial statements for the year consisting of— 15
 - (i) a statement of financial position prepared in accordance with the New Zealand International Financial Reporting Standards; and
 - (ii) an overall operating statement; and
 - (iii) a statement of cash flows; and 20
 - (iv) any other statements necessary to fairly reflect the amenity’s financial position, the resources available to it, and the financial results of its operations; and
 - (v) any other information reasonably necessary to 25
 - enable the Funding Board to make an informed assessment of the amenity’s operations for the financial year as set out in its annual plan.
- (3) ~~Where~~ If a specified amenity has the same financial year as the Funding Board, the financial statements provided under **subsection (2)(b)** must be audited and the annual report must contain the auditor’s report. 30
- (4) ~~Where~~ If a specified amenity has a different financial year ~~to~~ from that of the Funding Board, the financial statements provided under **subsection (2)(b)** need not be audited but **subsection (5)** applies. 35
- (5) ~~Where~~ When **subsection (4)** applies, the specified amenity—

- (a) must prepare audited financial statements for the financial year for the specified amenity; and
 - (b) provide those audited financial statements and auditor's report to the Funding Board within three months after the end of the specified amenity's financial year. 5
- (6) The specified amenity must prepare the report and send it to the Funding Board within 3 months after the end of the financial year to which it relates.
- 39 Funding Board does annual report**
- (1) The Funding Board must, at the end of every financial year, 10
prepare a report that—
- (a) assesses the Funding Board's performance; and
 - (b) assesses the performance of each of the specified amenities, taking into account their annual reports under **section 38**; and 15
 - (c) contains audited financial statements for the year consisting of—
 - (i) a statement of financial position of the Funding Board; and
 - (ii) an overall operating statement of the Funding Board; and 20
 - (iii) a statement of cash flows of the Funding Board; and
 - (iv) any other statements necessary to fairly reflect the Board's financial position, the resources 25
available to it, the financial results of its operations, and the financial results of the specified amenities' operations; and
 - (d) contains the auditor's report on the financial statements; and 30
 - (e) contains any other information necessary to enable an informed assessment of the operations of the Funding Board and the specified amenities for the financial year as set out in the Board's funding plan adopted for the financial year. 35
- (2) The Funding Board must adopt the report within 5 months after the end of the financial year to which it relates.

- (3) Within 20 working days of adopting the report, the Funding Board must—
- (a) make a copy available for public inspection; and
 - (b) give public notice that a copy is available for public inspection; and
 - (c) send a copy to each contributing authority and the Amenities Board.

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40 Contributing authority's annual report

Every contributing authority must include information about its dealings with, and payments to, the Funding Board in its annual report under section 98 of the Local Government Act 2002.

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Subpart 5—Miscellaneous provisions

41 Specified amenities may seek other funding

- (1) This section applies to a specified amenity that has received or is receiving funding under this Act.
- (2) The specified amenity may receive public funding from any other funding agencies or sources, including—
- (a) a central government agency; and
 - (b) a department specified in Schedule 1 of the State Sector Act 1988.
- (3) The specified amenity may not receive funding from a contributing authority for expenses that have been or are being funded under this Act.

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42 Auckland Zoo

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- (1) In this section, **Auckland Zoo** means the Auckland City Council undertaking known as the Auckland Zoo or the Auckland Zoological Park.
- (2) This section applies if the Auckland Zoo—
- (a) is established as a legal entity that—
 - (i) carries out the functions of the Auckland Zoo; and
 - (ii) is separate from the Auckland City Council; and
 - (b) is registered as a charitable entity under the Charities Act 2005.

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- (3) ~~On and from the date of the establishment and registration, the Auckland Zoo~~ On the date on which the Auckland Zoo is both established and registered, the zoo—
- (a) is treated as if it were listed in **Schedule 1**; and
 - (b) is subject to this Act. 5

Subpart 6—Transitional provisions

43 Funding Board: first appointments

- (1) As soon as is practicable after this Act comes into force,—
- (a) the Electoral College must meet and appoint members of the Funding Board under **section 6(2)**; and 10
 - (b) the Amenities Board must meet and appoint members of the Funding Board under **section 6(3)**.
- (2) The following provisions apply to the first members appointed to the Funding Board:
- (a) of the ~~5~~ 6 members appointed under **section 6(2)**, ~~3~~ 4 15 hold office for a term of 2 years and ~~2~~ for a term of 3 years; and
 - (b) of the ~~5~~ 4 members appointed under **section 6(3)**, ~~2~~ hold office for a term of 2 years and ~~3~~ 2 for a term of 3 20 years; and
 - (c) whether a member holds office for a term of 2 years or 3 years must be determined by lot, unless the members agree on a different method.
- (3) The term of office of a Funding Board member to whom **sub-section (2)** applies ends on the 30 May— 25
- (a) in the second year after the member is appointed if the member's term is 2 years; and
 - (b) in the third year after the member is appointed if the member's term is 3 years.
- (4) If the Funding Board does not have at least 6 members by the establishment day, the Board must not do any function or duty, or exercise any power, under this Act. 30
- (5) **Clause 4(6) of Schedule 4** applies to—
- (a) the first Funding Board appointed after the establishment day with 10 members; and 35
 - (b) every later ~~board~~ Board.

44 Funding Board: first actions

- (1) The chairperson of the Electoral College must call the first meeting of the Funding Board as soon as is practicable after the establishment day.
- (2) The chairperson of the Electoral College must chair the first meeting until the Funding Board's members elect a chairperson. 5
- (3) At its first meeting, the Funding Board must—
 - (a) elect 1 of the 5 6 members appointed by the Electoral College under **section 6(2)** as chairperson; and 10
 - (b) elect any member as deputy chairperson.
- (4) The Funding Board must, as soon as is practicable, adopt appropriate procedural rules to govern its operations and the conduct of its meetings.
- (5) **Section 24(4)** does not apply to the first draft funding plan that the Funding Board prepares. 15

45 Amenities Board: first actions

- (1) The first appointments to the Amenities Board must be made before the establishment day.
- (2) The first meeting of the Amenities Board must be held as soon as is practicable after this Act comes into force to appoint members of the Funding Board under **section 6(3)**. 20
- (3) The first meeting may be called by any of the Amenities Board's members.
- (4) At its first meeting, the Amenities Board must elect one of its members as chairperson. 25

46 Termination of contracts or agreements between specified amenities and contributing authorities

- (1) This section applies to a contract or agreement that—
 - (a) is made between a specified amenity and a contributing authority; and 30
 - (b) is made for the purpose of funding the specified amenity; and
 - (c) is in force on 1 July of the first financial year after this Act comes into force in which funding is to be received by the specified amenity under this Act. 35

- (2) The contract or agreement is terminated on the 1 July described in **subsection (1)(c)**.
-

Schedule 1
Specified amenities**s 4**

Auckland Observatory and Planetarium Trust Board	
Auckland Philharmonia	5
Auckland Regional Rescue Helicopter Trust	
Auckland Theatre Company Limited	
Coast Guard Northern Region Incorporated	
New Zealand National Maritime Museum Trust Board	
New Zealand Opera Limited	10
Surf Life Saving Northern Region Incorporated	
The Auckland Festival Trust	
Watersafe Auckland Incorporated	

Schedule 2
Funding for first financial year

s 24 30

Specified amenity	Amount of funding
Auckland Observatory and Planetarium Trust Board	\$500,000
Auckland Philharmonia	\$1,500,000
Auckland Regional Rescue Helicopter Trust	\$1,500,000
Auckland Theatre Company Limited	\$800,000
Auckland Zoo	\$4,000,000
Coastguard Northern Region Incorporated	\$500,000
New Zealand National Maritime Museum Trust Board	\$1,000,000
New Zealand Opera Limited	\$500,000
Surf Life Saving Northern Region Incorporated	\$700,000
The Auckland Festival Trust	\$1,200,000
Watersafe Auckland Incorporated	\$500,000

Schedule 3
Contributing authorities and differential factors

s 4

Territorial authority	Differential factor
Auckland City Council	1.0
Franklin District Council	0.6
Manukau City Council	1.0
North Shore City Council	1.0
Papakura District Council	1.0
Rodney District Council	0.6
Waitakere City Council	1.0

Schedule 4

s 9

Administrative provisions for Funding Board

- 1 Nature** 5
- (1) The Funding Board has perpetual succession.
- (2) The Funding Board is not a council-controlled organisation for the purposes of the Local Government Act 2002.
- 2 Independence** 10
- (1) In doing the functions and duties, and exercising the powers, of the Funding Board, the members must act independently of—
- (a) the body that appointed them; and
- (b) the contributing authorities; and
- (c) the specified amenities. 15
- (2) In doing the functions and duties, and exercising the powers, of the Funding Board, the member referred to in **section 6(3A)** must represent the interests of Māori in the Auckland region.
- 3 No personal liability** 20
- Funding Board members are not personally liable for acts done or defaults made—
- (a) in good faith; and
- (b) in the course of the Funding Board's operations; and
- (c) by—
- (i) the Funding Board, or 25
- (ii) a Funding Board member.
- 4 Terms of office**
- (1) Every Funding Board member is appointed for a term of 3 years starting on the day after the date on which the previous term ends. 30
- (2) **Subclause (1)** does not apply to members appointed under **section 43** or **clause 6(3)**.
- (3) Every member is eligible for reappointment.
- (4) **Subclause (5)** applies to a member to whom the following apply: 35

- (a) his or her term of office ends; and
- (b) he or she has not resigned his or her office; and
- (c) he or she is not in a situation described in **clause 6(1)**.
- (5) The member continues to hold office by virtue of his or her appointment until— 5
- (a) he or she is reappointed; or
- (b) his or her successor is appointed.
- (6) The Funding Board's functions, duties, and powers are not affected by a vacancy in its membership.
- 5 Resignations** 10
- (1) A Funding Board member may resign his or her office by giving a notice in writing or electronically to the advisory officer.
- (2) A member who resigns his or her office on terms that permit him or her to continue in office may do so by virtue of his or her appointment until his or her successor is appointed. 15
- 6 Extraordinary vacancies**
- (1) This clause applies if any Funding Board member is in one of the following situations:
- (a) the member dies; or
- (b) the member resigns his or her office on terms that do not permit his or her continuing to hold office; or 20
- (c) the member is absent without leave from 2 consecutive Funding Board meetings; or
- (d) the member becomes an elected or appointed member of a contributing authority; or 25
- (e) the member becomes the chief executive of a contributing authority; or
- (f) the member becomes an employee of a contributing authority; or
- (g) the member becomes a board member of a specified amenity; or 30
- (h) the member becomes an employee of a specified amenity; or
- (i) the member is declared bankrupt; or
- (j) the member becomes the subject of an order under section 383 of the Companies Act 1993; or 35

- (k) the member becomes subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
- (l) the member becomes a special patient as defined in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or 5
- (m) the member becomes the subject of an order under the Protection of Personal and Property Rights Act 1988; or
- (n) the member is convicted of an offence punishable by a term of imprisonment of 2 years or more. 10
- (2) If a member is in one of these situations,—
- (a) his or her term of office ends; and
- (b) the vacancy is an extraordinary vacancy.
- (3) An extraordinary vacancy must be filled in the same way as the appointment to the vacant office was originally made. The member appointed holds office only for the rest of the vacating member's term. 15
- (4) If an extraordinary vacancy occurs within 6 months before the date fixed for the next appointment to the office that has been vacated, the appointing body may decide not to fill the vacancy. 20
- 7 Chairperson and deputy chairperson**
- (1) The Funding Board must annually—
- (a) elect 1 of the ~~5~~ 6 members appointed by the Electoral College under **section 6(2)** as chairperson; and 25
- (b) elect any member as deputy chairperson.
- (2) The chairperson and deputy chairperson may stand for re-election.
- (3) The chairperson of the Funding Board—
- (a) must preside at all meetings of the Funding Board at which he or she is present; and 30
- (b) has the functions, duties, and powers that the Board delegates to him or her from time to time.
- (4) The deputy chairperson must act in place of the chairperson in any case where the chairperson— 35
- (a) is absent; or
- (b) is unable to act for any other reason.

8 Meetings

- (1) If the chairperson and the deputy chairperson are absent from a meeting, the members present must appoint one of their number to be the chairperson of the meeting.
- (2) A quorum for a meeting of the Funding Board is a majority of its members. 5
- (3) The Funding Board must decide every question before it in open voting by a majority of the votes recorded on it.
- (4) The person presiding at a meeting of the Funding Board has a deliberative vote and, if the votes are equal, also has a casting vote. 10
- ~~(5) Meetings of the Funding Board must be conducted in public unless good grounds exist for excluding the public.~~
- (6) Part 7 of the Local Government Official Information and Meetings Act 1987 applies to the Funding Board as if it were a local authority subject to that Part. 15

9 Procedural rules

The Funding Board may regulate its own proceedings on matters not specifically dealt with in this Act.

10 Remuneration 20

- (1) ~~The Funding Board~~ Electoral College must decide how much to pay ~~its members~~ each member of the Funding Board after considering a recommendation from the Funding Board.
- (2) ~~The Funding Board~~ Electoral College must decide to pay an amount that is appropriate having regard to— 25
- (a) the public purpose of ~~its~~ the Board's functions; and
- (b) the extent of public funding of ~~its~~ the Board's operations.
- (3) ~~The Funding Board must not pay a member in a financial year an amount~~ Electoral College must not determine a rate of pay for a Funding Board member in a financial year greater than that specified for the payment of a member in the funding plan adopted for the year. 30
- (4) The Funding Board must recommend to the Electoral College how much a member of the Board should be paid in a financial year having regard to the matters in **subsections (2) and (3).** 35

- (5) The Funding Board must pay its members the amount determined by the Electoral College.

11 Dealings with other bodies

- The Funding Board may liaise, consult, and, if it considers necessary, enter into agreements with any body that— 5
- (a) provides funding to a specified amenity; or
 - (b) is a potential source of funding for a specified amenity.

12 Advisory officer

- (1) The Funding Board may appoint an advisory officer to assist it in doing its functions. 10
- (2) However, if the Electoral College requires it, the advisory officer must be a person seconded for service from one of the contributing authorities.
- (3) The advisory officer is responsible to the Funding Board for—
 - (a) implementing the Board's decisions; and 15
 - (b) ensuring that the Board's operations are conducted in a transparent and accountable manner; and
 - (c) providing services and advice to Board members; and
 - (d) ensuring the effective, efficient, and economic management of the Board's operations and planning; and 20
 - (e) doing any other functions that the Board delegates to him or her.

13 Auditor

- (1) The Auditor-General is the Funding Board's auditor.
- (2) For the purpose of auditing the Funding Board, the Auditor-General— 25
 - (a) has and may do all the Auditor-General's functions and duties under the Public Audit Act 2001; and
 - (b) has and may exercise all the Auditor-General's powers under the Public Audit Act 2001. 30

Auckland Regional Amenities Funding Bill

Legislative history

4 September 2007

19 September 2007

Introduction (Bill 151-1)

First reading and referral to Local Government and
Environment Committee
