

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 24 May 1979.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Mr Prebble

**AUCKLAND WAR MEMORIAL MUSEUM
MAINTENANCE**

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to consolidate and amend the law relating to the provision of funds for the maintenance of the Auckland War Memorial Museum; to make better provision for the administration thereof, and to deal with related matters

5 WHEREAS the Auckland Institute and Museum Trust Board, a Board now deemed to have been incorporated under the provisions of the Charitable Trusts Act 1957, established a Museum in the Auckland Domain within the district of the **10** City of Auckland: And whereas the Museum is vested in the Board and has been placed on land held by it under lease from the Corporation of the City of Auckland: And whereas

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the affairs of the Museum are administered and governed by a Council, whilst the Trust Board remains responsible for the capital fund represented by the Museum building, its contents and other investments: And whereas the people in the area formerly known as the Province of Auckland have from time to time by voluntary subscription provided funds towards the construction of this building and additions thereto as a memorial to the men and women of that area who served and who fell in the various wars in which New Zealand has been actively involved since the year 1914: And whereas with the passing of the years the area has undergone many changes in the pattern and growth of its population and in the structure of local government therein: And whereas it is expedient in the light of those changes to re-define the basis upon which the Museum is henceforth to be maintained and administered, whilst at the same time ensuring that those changes shall not in any way compromise or work to the prejudice of the sentiments of those persons, both living and now dead, to whose generosity the existence of the Museum in its present form is largely due:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

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1. **Short Title**—This Act may be cited as the Auckland War Memorial Museum Maintenance Act 1978 and, except as provided in section 6 (2) of this Act, shall come into force on the first day of January 1979.

2. **Repeal**—The enactments set out in the Second Schedule to this Act are hereby repealed.

New

1. **Short Title and commencement**—(1) This Act may be cited as the Auckland War Memorial Museum Maintenance Act 1979.

(2) Except as provided in section 6 (2) of this Act, this Act shall come into force on the 1st day of January 1980.

3. **Contributions by local authorities towards maintenance of Museum**—(1) Subject to the provisions of subsection (8) of this section, the Council administering and governing the

affairs of the Auckland War Memorial Museum (hereinafter referred to as "the Council" except where the context otherwise requires) may, for each financial year beginning on the 1st day of April, for the purposes of the management, maintenance, support, and development of the Museum, by resolution make a levy against all the local authorities set out in the (*First*) Schedule to this Act (hereinafter respectively referred to as "the contributing authorities" and as "the (*First*) Schedule") of such amount and in such manner as is authorised or is required by this Act.

(2) For the purposes of this section—

(a) The capital value of rateable property within the district of each contributing authority shall be deemed to be the capital value thereof as at the 31st day of March preceding the financial year in respect of which the levy is to be made, such value being determined under the Valuation of Land Act 1951 and certified as correct by the Valuer-General who shall (without further direction than is contained herein) apply thereto the provisions of Part IX of the Rating Act 1967:

(b) The population of the district of each contributing authority shall be that which is ascertained or calculated by the Government Statistician as at a date as near as is reasonably practicable to the said 31st day of March, and before the last-mentioned date the Council shall have made a written request to him for that information.

(3) An adjustment of the capital value of rateable property and of the population of the district of each contributing authority, each calculated as aforesaid, shall be made by multiplying that capital value and that population by the differential factor shown opposite the name of each contributing authority in the (*First*) Schedule.

(4) The total amount of the levy against each contributing authority shall not exceed in any year 1/225c in the dollar on the total capital value of rateable property in its district (adjusted as aforesaid) plus 2.5c per person of the population of its district (adjusted as aforesaid) (*provided however*):

Provided that if a contributing authority in Groups 2, 3, or 4 of the (*First*) Schedule (*shall establish*) operates a museum in its district and (*shall*) employs full time professional staff therein at a salary level corresponding with or

above the top level of Scientist 2 on the Government Scale (or such other scale as may replace it), then, in each **(of the succeeding years after its establishment)** year during which it is so operated, the levy payable by that contributing authority shall be reduced by 25 percent if 1 such person is employed in that year, by 50 percent if 2 such persons are so employed, and by 75 percent if 3 or more such persons are so employed. In order to qualify for such reduction the membership of the staff shall be maintained at the figure claimed for a minimum period of 9 months in that year, and the senior executive officer of the contributing authority claiming the reduction shall, if called upon by the Council, verify the grounds upon which the claim is based by statutory declaration.

(5) Whereas in fixing the differential factor for each contributing authority in Group 4 of the **(First)** Schedule, a basic figure of .40 has in each case been taken, and this has then been reduced to the figure set out therein by bringing into account the distance by road that its principal office is away from the Central Post Office at Auckland: in the event that the office of a contributing authority in that Group is moved from its present site the levy payable by it in each of the succeeding years after it has been moved shall be increased or reduced, as the case may be, by adding to or subtracting from the factor shown opposite its name a figure representing .0015 for each kilometre involved in the move:

Provided always that the differential factor shall not in any case be reduced below .05.

(6) The Council shall, in the resolution referred to in subsection (1) of this section, fix the amount to be levied against each of the contributing authorities, and a copy of the resolution shall be forwarded to each of the contributing authorities on or before the 31st day of May in the year in respect of which the levy is made. The relevant amount so levied shall be due and payable by each local authority on the 30th day of June next following, and it may at the option of the contributing authority be paid out of its general funds, or out of the proceeds of a rate as provided for in section 4 of this Act.

(7) In the event that the district of a contributing authority is altered as the result of the total or partial absorption thereof by any other local authority (whether or not that local authority is a contributing authority) or as the result of the

contributing authority absorbing the whole or part of the district of any other local authority (whether or not that local authority is a contributing authority) or as the result of the amalgamation of a contributing authority with any other
5 local authority (whether or not that local authority is a contributing authority) or as the result of the division of a contributing authority into 2 or more local authorities, the area that was hitherto subject to a levy in terms of this Act shall continue to be so subject, but upon the terms and condi-
10 tions following:

- (a) The area or areas previously subject to the levy shall continue to be so subject and the differential factor previously applicable thereto shall continue to apply unless an area is absorbed into the district of another
15 contributing authority, in which case the differential factor applicable to the latter shall apply to the area for the year after the happening of that event and thereafter:
- (b) No account shall be taken of the fact that the foregoing circumstances may result in part only of the district of a local authority being levied:
- (c) The provisions of paragraphs (a) and (b) of this subsection shall be read in conjunction with the provisions of subsection (5) of this section, and, where
25 appropriate, an adjustment or adjustments shall be made to give effect to the said subsection (5):
- (d) Nothing in paragraphs (a) and (b) of this subsection shall enable the Council to impose a levy upon any area that, at the date on which this Act came into
30 force, is outside the districts of the contributing authorities:
- (e) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection, the Local Government Commission is hereby empowered in the exercise of its
35 jurisdiction in regard to the constitution, alteration, union, or abolition of the district of a territorial authority to review the effect of the said paragraphs upon the matter before it, and to make such other provision in that behalf and for such period as it
40 may think appropriate.

New

(7A) Notwithstanding anything in the provisions of this section, the Council may, in any year or years, remit any part of the levy, not exceeding 25 percent thereof, that otherwise would have been payable by a contributing authority in the said Groups 2, 3, or 4, if, in the Council's opinion, the amount of the levy would in all the circumstances impose an unreasonable burden upon that contributing authority, but the provisions of this subsection shall not apply in the case of a contributing authority which has established a museum and which is entitled to a reduction in its levy pursuant to the provisions of subsection (4) of this section. Without in any way limiting the circumstances to be taken into account by the Council in exercising the said discretion, it is hereby declared that a relevant factor shall be the cost incurred by the contributing authority in establishing and maintaining a local museum of its own.

(8) The Council shall not make any levy in terms of this section until its proposals in that behalf have been endorsed by resolution of a Special Committee of members of the Council, the majority of whom shall be drawn from the persons appointed or elected to the Council under section 6 of this Act.

4. Rate may be struck—In addition to any other rate which it is authorised to make, a contributing authority may from time to time strike a rate in its district (or in the part of its district subject to the levy) to be known as the War Memorial Museum rate, for the purpose of providing its contribution payable to the Council in terms of this Act, and the provisions of the *(Municipal Corporations Act 1954 or of the Counties Act 1956 (as the case may be))* Local Government Act 1974 and of the Rating Act 1967 shall apply to any such rate.

5. Council authorised to undertake limited trading activities and to make charges in certain circumstances—(1) As a means of providing additional revenue for the purposes described in section 3 (1) of this Act, and notwithstanding anything to the contrary in any Act or document, the Council is hereby empowered, and shall be deemed always to have been empowered, to establish, maintain, and operate, or to grant licences to operate, upon such terms and conditions as it thinks fit, a shop, planetarium, tearoom and restaurant, or

any 1 or more of them in the Museum, and to arrange or hold special exhibitions, functions, or lectures therein and to make charges or authorise charges to be made for the use of, or admission to, the same.

- 5 (2) Nothing in this section shall be construed as authorising the Council to undertake or permit any activity that would detract from the basic principle that the Museum shall be a War Memorial open to everyone free of an admission charge.

10 **6. Representation of contributing authorities**—(1) The contributing authorities shall be entitled to representation on the Council in the manner following—

- (a) The Auckland City Council, by 3 members of that Council appointed triennially by it:
15 (b) The Manukau City Council, by 2 members of that Council appointed triennially by it:
(c) The Takapuna City Council and the Waitemata City Council, by 1 member of each of those Councils appointed triennially by the Council concerned:
20 (d) The local authorities mentioned in paragraph (b) in Group 1 of the **(First)** Schedule by 2 members to be elected triennially by and from the members of the Councils of those local authorities:
(e) The local authorities mentioned in paragraph (c) in Group 1 of the **(First)** Schedule by 2 members to
25 be elected triennially by and from the members of the Councils of those local authorities:
(f) The local authorities mentioned in Groups 2 and 3 of the **(First)** Schedule by 1 member for the combined groups to be elected triennially by and from the
30 members of the Councils of those local authorities:
(g) The local authorities mentioned in paragraph (a) in Group 4 of the **(First)** Schedule by 1 member to be elected triennially by and from the members of the Councils of those local authorities:
35 (h) The local authorities mentioned in paragraph (b) in Group 4 of the **(First)** Schedule by 1 member to be elected triennially by and from the members of the Councils of those local authorities.

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40 Provided nevertheless that the Governor-General may from time to time, by Order in Council, whenever in his opinion it becomes necessary or expedient to do so by reason of changes in population or in the

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districts of contributing authorities, or by reason of other circumstances, alter the foregoing basis of representation on the Council to be effective from and after the next following triennial general election. 5

New

(1A) The appointments and elections referred to in subsection (1) of this section shall be completed within 5 months after each triennial general election. 10

(1B) The contributing authorities may at any time, at the request of any one or more of them, consider any alteration to the allocation among them of appointments to the Council (including any alteration to the total number of such appointments) and, if they all agree, may from time to time, having regard to the population and adjusted capital value of their districts and also to the amounts of any levies made by the Council on the several contributing authorities, alter that allocation by notice in writing to the Council. 15
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(1C) In having regard, pursuant to subsection (1B) of this section, to the adjusted capital value and population of each district or combination of districts, the contributing authorities shall have regard to the adjusted capital value and to the population as at the immediately preceding 31st day of March. 25

(1D) If, on that consideration, the constituent authorities do not all agree, the Secretary of the Council shall refer the matter to the Local Government Commission, which shall duly consider and determine the matter. 30

(1E) Subject to section 37A of the Local Government Act 1974, the determination of the Local Government Commission shall be final, and the allocation of appointments shall be implemented accordingly.

(2) The provisions of this section shall ~~(not come into force until)~~ come into force on the date of the triennial general election to be held in October 1980 in accordance with the requirements of the Local Elections and Polls Act 1976, and ~~(in the meantime)~~ until that date representation on the Council shall, notwithstanding its repeal, continue to be determined in accordance with the provisions of the Auckland War Memorial Museum Amendment Act 1963. 35
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Struck Out

(3) The appointments and elections referred to in subsection (1) of this section shall be completed within five months after each triennial general election.

- 5 **7. Method of conducting elections**—(1) The following provisions shall apply with respect to every election by contributing authorities pursuant to section 6 (1) (d), (e), (f), (g), and (h) of this Act:
- 10 (a) The Secretary of the Council, or such other person as the Council may appoint, shall be the Returning Officer for the election, and he shall make all necessary arrangements for, and shall conduct, the election:
- 15 (b) Each local authority entitled to representation pursuant to the provisions of section 6 (1) (d), (e), (f), (g), or (h) of this Act shall be entitled to nominate 1 of the members of its Council for election:
- 20 (c) Written notice of the date on which the election is to be held shall be sent by the Returning Officer, by registered post, to the principal officer of each contributing authority concerned not less than 2 calendar months prior to such date, and it shall be deemed to have been given at the time at which the letter would have been delivered in the ordinary course of post. The notice shall specify a day, not earlier than 1 calendar month after the date of the delivery of the notice, by which nominations must be
- 25 lodged with the Returning Officer:
- 30 (d) Immediately after the closing date for nominations, the Returning Officer shall send by registered post to the contributing authorities concerned a notification of the nominations received. If the number of nominations does not exceed the number of vacancies to be filled the Returning Officer shall in that notification declare the candidate or candidates so nominated to be duly elected provided that he is satisfied of their status:
- 35 (e) If the number of nominations exceeds the number of vacancies to be filled the election shall be conducted, by ballot, and each member of the Council of each contributing authority concerned shall have 1 vote:
- 40

(f) Every election shall be decided on a majority of votes validly cast, and in the event that there is an equality of votes between candidates and the addition of a vote would entitle any of them to be declared elected, the Returning Officer shall determine by lot which candidate shall be elected: 5

(g) The Council may make such (*regulations*) rules as it shall think fit (not inconsistent with this Act) in respect of any matters relating to the conduct of the election which are not expressly provided for herein. 10

(2) Every member of the Council appointed or elected under this section shall come into office on the day following that on which he is appointed or elected.

8. Extraordinary vacancies—(1) A member of the Council shall vacate his office if he ceases to be a member of the contributing authority from which he derived his qualification. 15

(2) A member of the Council, whether appointed or elected, may at any time resign his office by notice in writing addressed to the Secretary of the Council, but every such member shall continue to hold office until his successor has been appointed or elected. 20

(3) Every extraordinary vacancy within the meaning of section 2 of the Local Elections and Polls Act 1976 shall be filled in the same manner as in the case of the vacating member, and the member appointed or elected to fill any such vacancy shall hold office for the residue of the term of the vacating member only: 25

Provided that where any such vacancy occurs within 6 months before the date fixed for the next triennial general election, the Councils of the contributing authorities affected by that vacancy may, by resolution passed by all of them, determine that the vacancy shall not be filled and in that case no appointment shall be made or no election shall be held to fill that vacancy or any other existing extraordinary vacancy. 30 35

9. Remuneration of President and members—(1) The Council is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) The Council may pay to the President and to the members of the Council remuneration by way of fees, salary or allowances and may meet or reimburse them for travelling 40

allowances or travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

5 (3) The provisions of this section shall apply to all members of the Council whether they have been appointed thereto under the provisions of this Act or by other lawful means.

10 **10. Unauthorised expenditure**—The Council may in every financial year expend for purposes not authorised by any Act or law for the time being in force any sum or sums not amounting in the whole to more than 1 percent of the gross receipts of the Council for that year, nor in any case to more than \$2,000.

15 **11. Certain provisions of Local Authorities Loans Act 1956 to apply**—The Council shall be deemed to be a local authority for the purposes of Part II of the Local Authorities Loans Act 1956 but not otherwise.

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20 **12. Council declared a local authority within the meaning of the Local Authorities (Members' Interests) Act 1968**—The Council is hereby declared to be a local authority within the meaning of the Local Authorities (Members' Interests) Act 1968.

New

25 **12. Amending Local Authorities (Members' Interests) Act 1968**—Part II of the First Schedule to the Local Authorities (Members' Interests) Act 1968 is hereby amended by inserting in its appropriate alphabetical order the following item:

"The Auckland War Memorial Museum Council	1979, No. 00 (Local)—The Auckland War Memorial Museum Maintenance Act 1979."
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30 **13. Superannuation and other benefits for employees**—The Council shall be deemed to be a local authority for the purposes of the National Provident Fund Act 1950 and section 6 of the Finance Act (No. 2) 1941.

14. Audit Office to be the auditor of the Council—(1) The Audit Office shall be the auditor of the Council, and it shall have the same duties and powers in respect of the moneys and

accounts of the Council and of every person dealing there-with as if the Council were a local authority within the mean-ing of section 2 of the Public Finance Act 1977.

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(2) Within 28 days after the close of each financial year ending with the 31st day of March, the Council shall cause to be prepared and submitted to the Audit Office for audit a balance sheet and income and expenditure account showing fully the financial position of the Council at the close of the year. 5 10

New

(2) As soon as reasonably practicable after the end of each financial year, the Council shall prepare a balance sheet and such other statements of account as are necessary to show fully the financial position of the Council at the end of that year and the financial results of its operations during the year. 15

15. Repeals—The following enactments are hereby re-pealed:

- (a) The Auckland War Memorial Museum Maintenance Act 1928: 20
- (b) The Auckland War Memorial Museum Maintenance Amendment Act 1945:
- (c) The Auckland War Memorial Museum Maintenance Amendment Act 1963. 25

(SCHEDULES)

Section 3 (1)

(FIRST) SCHEDULE

Name of Contributing Authority	Column 1	Column 2
	Differential Factor	
<i>Group 1—Paragraph (a)</i>		
Auckland City Council	1.0
Manukau City Council	1.0
Takapuna City Council	1.0
Waitemata City Council	1.0
<i>Paragraph (b)</i>		
Birkenhead Borough Council	1.0
Devonport Borough Council	1.0
East Coast Bays City Council	1.0
Glen Eden Borough Council	1.0
Henderson Borough Council	1.0
Mount Albert Borough Council	1.0

(FIRST) SCHEDULE—continued

Column 1 Name of Contributing Authority	Column 2 Differential Factor
<i>Paragraph (b)—continued</i>	
Mount Eden Borough Council	1.0
Mount Roskill Borough Council	1.0
New Lynn Borough Council	1.0
Northcote Borough Council	1.0
<i>Paragraph (c)</i>	
Ellerslie Borough Council	1.0
Howick Borough Council	1.0
Mount Wellington Borough Council	1.0
Newmarket Borough Council	1.0
Onehunga Borough Council	1.0
One Tree Hill Borough Council	1.0
Otahuhu Borough Council	1.0
Papakura City Council	1.0
Papatoetoe City Council	1.0
<i>Group 2</i>	
Franklin County Council	0.6
Helensville Borough Council	0.6
Pukekohe Borough Council	0.6
Rodney County Council	0.6
Tuakau Borough Council	0.6
Waiuku Borough Council	0.6
<i>Group 3</i>	
Great Barrier Island County Council	0.2
Waiheke County Council	0.4
<i>Group 4—Paragraph (a)</i>	
Bay of Islands County Council .....	.06
Whangaroa County Council .....	.05
Hobson County Council .....	.12
Hokianga County Council .....	.05
Mangonui County Council .....	.05
Otamatea County Council .....	.20
Whangarei County Council .....	.13
Whangarei City Council .....	.15
Dargaville Borough Council .....	.12
Kaikohe Borough Council .....	.05
Kaitaia Borough Council .....	.05
Hikurangi Town Council .....	.12
Hauraki Plains County Council .....	.25
Ohinemuri County Council .....	.22
Raglan County Council .....	.24
Thames-Coromandel District Council .....	.23
Waikato County Council .....	.21
Hamilton City Council .....	.21
Huntly Borough Council .....	.26
Ngaruawahia Borough Council .....	.24
Paeroa Borough Council .....	.22

14 *Auckland War Memorial Museum Maintenance*

(FIRST) SCHEDULE—*continued*

Column 1 Name of Contributing Authority <i>Paragraph (b)</i>	Column 2 Differential Factor
Matamata County Council	.14
Otorohanga County Council	.12
Piako County Council	.18
Taumarunui County Council	.05
Waipa County Council	.16
Waitomo District Council (Rural Div.)	.09
Waitomo District Council (Urban Div.)	.09
Cambridge Borough Council	.17
Matamata Borough Council	.14
Morrinsville Borough Council	.19
Putaruru Borough Council	.11
Taumarunui Borough Council	.05
Te Aroha Borough Council	.18
Te Awamutu Borough Council	.16
Tokoroa Borough Council	.08
Waihi Borough Council	.18
Rotorua County Council	.05
Taupo County Council	.05
Tauranga County Council	.09
Rotorua City Council	.05
Whakatane District Council	.05
Murupara Borough Council	.05
Kawerau Borough Council	.05
Taupo Borough Council	.05
Mount Maunganui Borough Council	.06
Tauranga City Council	.09
Te Puke Borough Council	.05
Opotiki County Council	.05

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Section 2	SECOND SCHEDULE
1928, No. 19 [Local]—The Auckland War Memorial Museum Maintenance Act 1928, section 6.	
1963, No. 6 [Local]—The Auckland War Memorial Museum Maintenance Amendment Act 1963.	