

Legislative Council—Bill No 249

Amendments to be moved by the Hon Rob Lucas MLC [1]

Filed 10.11.17

South Australia

Education and Children's Services Bill 2017

Amendment No 1 [Lucas-1]—

Clause 38, page 31, lines 7 to 16 [clause 38(2)]—

Delete subsection (2) and substitute:

- (2) Subject to this Act, a majority of the persons appointed under subsection (1)(b) must be persons who are responsible for students enrolled in, or children who are to attend, the school unless the school is wholly or principally for adult students.

Amendment No 2 [Lucas-1]—

Clause 48, page 36, line 35 to page 37, line 15—

Delete clause 48

Amendment No 3 [Lucas-1]—

Clause 50, page 37, line 29 to page 38, line 36—

Delete clause 50

Amendment No 4 [Lucas-1]—

Clause 51, page 39, lines 1 to 28 —

Delete clause 51

Amendment No 5 [Lucas-1]—

New Subdivision, page 39, after line 28—

Insert:

Subdivision 6—Governing Councils Legal Fund

51A—Interpretation

In this Subdivision—

Crown Solicitor has the same meaning as in the *Crown Proceedings Act 1992*;

Fund means the Governing Councils Legal Fund established under section 51B.

51B—Governing Councils Legal Fund

- (1) There will be a fund kept in a separate account at the Treasury to be called the *Governing Councils Legal Fund*.
- (2) The Fund consists of—
 - (a) the money provided by Parliament for the purposes of the Fund; and

- (b) any money paid into the Fund under any other Act.
- (3) Any money standing to the credit of the Fund that is not for the time being required for the purposes of this Act may be invested by the Treasurer.
- (4) Income from investment of the Fund will, at the direction of the Treasurer, be paid into the Fund or into the Consolidated Account.
- (5) A deficiency in the Fund will be met from the Consolidated Account.

51C—Payments from Fund

- (1) The Fund is to be applied as follows:
 - (a) as payment for the costs of independent legal advice incurred, or to be incurred, by the governing council of a school in relation to a dispute between the governing council and the Department;
 - (b) as may otherwise be authorised by or under this or any other Act.
- (2) A payment may only be made from the Fund under subsection (1)(a) with the approval of the Crown Solicitor.
- (3) The governing council of a school may, in a manner and form determined by the Crown Solicitor, apply to the Crown Solicitor for approval of a payment from the Fund under subsection (1)(a).
- (4) An application must be accompanied by such information or documents as may reasonably be required by the Crown Solicitor.
- (5) The Crown Solicitor must approve the payment from the Fund under subsection (1)(a) if the Crown Solicitor is satisfied that—
 - (a) there is a genuine dispute between the governing council and the Department that is not trivial, frivolous or vexatious; and
 - (b) it is necessary or appropriate that the governing council seek independent legal advice in relation to the dispute.
- (6) In performing a function under this section, the Crown Solicitor is, despite the *Public Sector Act 2009* or any other Act or law, independent of direction or control by the Crown or any Minister or officer of the Crown.
- (7) Nothing in this section prevents a governing council from seeking any legal advice it thinks fit.

51D—Accounts

The Minister must cause proper accounts to be kept of money paid to and from the Fund.

51E—Audit

The Auditor-General may at any time, and must at least once in each year, audit the accounts of the Fund.

Amendment No 6 [Lucas-1]—

Clause 55, page 42, lines 21 and 22 [clause 55(2)(d)]—

Delete "(not being a teacher at a school that is subject to the review) nominated by the Australian Education Union (SA Branch)" and substitute:

representing the staff of each school to which the review relates, nominated by the staff of each such school

Amendment No 7 [Lucas-1]—

Clause 82, page 57, lines 24 to 26 [clause 82(2)]—

Delete subclause (2) and substitute:

- (2) If a person responsible for a student who is a child seeks, in writing, permission of the principal of the school for the student to be exempted from attendance at intercultural instruction or religious instruction on conscientious grounds, the student will be exempted from attendance at such instruction.

Amendment No 8 [Lucas-1]—

Clause 82, page 57, line 27 [clause 82(3)]—

Delete "does not have consent to participate in" and substitute:

is exempt from attendance at

Amendment No 9 [Lucas-1]—

Clause 82, page 57, line 28 [clause 82(3)(a)]—

Delete "participating in" and substitute:

attending

Amendment No 10 [Lucas-1]—

Clause 106, page 69, lines 9 to 11 [clause 106(2)(b)]—

Delete "with the agreement of the Australian Education Union (SA Branch) (1 or more of whom must be nominees of the Australian Education Union (SA Branch))" and substitute:

(at least 1 of whom must be a person elected by officers of the teaching service to represent them on committees established under this paragraph)

Amendment No 11 [Lucas-1]—

Clause 141, page 91, line 10 [clause 140(2)(y)]—

After "regulations" insert:

(other than an offence against Subdivisions 1 or 3 of Part 7 Division 2 of this Act)