

Strong Advertising Restrictions (Safeguarding Taxpayers' Funds) Bill 2014

Explanatory Notes

Title of the Bill

The short title of the Bill is the *Strong Advertising Restrictions (Safeguarding Taxpayers' Funds) Bill 2014* (the Bill).

Objectives of the Bill

The objective of the Bill is to better safeguard taxpayers' funds from inappropriate public expenditure on political advertising. The Bill strengthens the restrictions on political advertising by the Government through a range of means, including:

- Legislating the standards and requirements of the Queensland Government's Advertising Code of Conduct, to actually enforce those guidelines;
- The establishment of an independent *Advertising Review Committee* (the committee);
- Bipartisan appointment of the committee members and chair;
- Ensuring committee members have experience in law, consumer protection, public finance, public administration and/or media/communications;
- Requiring approval of the committee to spend public money on advertising;
- Imposing penalties on Ministers and departmental Chief Executive Officers if they approve expenditure of public funds without proper approval from the committee;
- Strict guidelines for advertising within six months of the expected general state election date, with exceptions for road safety, disaster management and other legitimate advertising.

Reasons for the Bill

Despite the guidelines contained in the Queensland Government's Advertising Code of Conduct, significant taxpayer funds have been used under the current Government to pay for political advertising. These advertising campaigns are political in nature and fall outside any fair reading of the letter and spirit of the Code. It is evident that the Code, as it stands, has not prevented the Government from disregarding the requirements of the Code. As such, it has wasted large sums of public money on politically motivated advertising campaigns.

Achievement of the objectives

Legislating the Code's standards and establishing an independent committee to assess and approve proposed advertising campaigns will ensure that proper standards are enforced. The legislation will help to safeguard against government spending on political advertising. The inclusion of penalty provisions provides an enforcement process for failure to adhere to the code and the legislation.

Alternatives to the Bill

There is no alternative method to achieve the objectives other than by legislative amendment.

Estimated cost for government implementation

Any costs associated with implementation of the Bill will be met from existing agency resources.

This legislation includes increased safeguards against government spending on political advertising which has the potential to save significant public expenditure.

Consistency with Fundamental Legislative Principles

The Bill is generally consistent with fundamental legislative principles.

Consultation

Further consultation will occur with the Queensland Law Society, the Queensland Bar Association and other stakeholders during the parliamentary committee process.

Notes on Provisions

Part 1 Preliminary

Short title

Clause 1 sets out the short title of the Bill.

Commencement

Clause 2 provides for the Act to be binding on all persons, including the State.

Interpretation

Clause 3 advises that the definition is set out in schedule 2.

Clause 4 sets out what is government advertising, namely an advertising campaign that exceeds \$100,000 of public funding.

Restrictions on government advertising

Clause 5 imposes restrictions on government advertising outside of the pre-election period. This clause also imposes a maximum penalty of 200 penalty units or 2 years' imprisonment for responsible officers who fail to abide by the new requirements.

Clause 6 establishes the restrictions on government advertising for the pre-election period. The clause also contains the maximum penalty of 200 penalty units or 2 years' imprisonment for responsible officers who fail to abide by the new requirements.

Clause 7 sets out that before government funds can be spent on government advertising, the accountable officer must submit the proposal for the consideration and approval of the Advertising Review Committee. Clause 7 also sets out the process and information required in that process.

Clause 8 provides that the committee has an avenue to seek clarification or further information.

Clause 9 provides that the committee is to decide whether to issue a compliance certificate or not.

Clause 10 provides that the committee is to give written reasons for its decision whether to issue a compliance certificate or not. A copy is to be provided to the responsible officer and to the Speaker for tabling in the Legislative Assembly.

Advertising Review Committee

Clause 11 establishes the Advertising Review Committee.

Clause 12 sets out the function of the committee to determine whether or not to grant compliance certificates for proposed advertising campaigns.

Clause 13 provides for the committee to have the necessary powers required to fulfil its functions.

Clause 14 sets out that the committee is to be independent and impartial, free from direction or control from Ministers or Members of Parliament.

Membership of committee

Clause 15 provides that the committee is to consist of five members, appointed with the bipartisan approval of the parliamentary Finance Committee. Members of the Advertising Review Committee are to be experienced in consumer protection, community affairs, law, public administration, public finance, media and/or communications. A person is not eligible for appointment if they are a public service employee.

Term of appointment

Clause 16 sets out that committee members are to be appointed for a five-year term and may be reappointed.

Conditions of appointment

Clause 17 establishes that committee appointments are part-time and establishes the conditions of appointment.

Chairperson of Committee

Clause 18 provides for the appointment of the chair of the committee, with the bipartisan approval of the parliamentary Finance Committee. The chair may be appointed as chair at the same time as being appointed a member of the committee.

Clause 19 sets out the circumstances and requirements for a criminal history report for prospective members.

Clause 20 provides for the responsibilities of a committee member to disclose changes to criminal history should that occur.

Clause 21 sets out the requirements for members of the committee to disclose any direct or indirect interest – financial or otherwise – in a matter being considered by the committee.

Clause 22 sets out the circumstances and process for termination of appointment.

Clause 23 sets out when a vacancy occurs on the committee.

Clause 24 sets out the process and terms of appointments to fill a casual vacancy on the committee.

Committee's business and meetings

Clause 25 sets out that the committee may conduct its business in the way it considers appropriate.

Clause 26 sets out the timing and location of meetings is to be set by the chairperson. The clause outlines the procedures for meetings, including decisions made and the use of technology.

Clause 27 establishes that a quorum for a decision about issuing a compliance certificate is three committee members. For other matters, a quorum is two committee members.

Clause 28 sets out that minutes must be taken of meetings, including records of all decisions made, particularly decisions on whether or not to grant a compliance certificate.

Committee reports

Clause 29 sets out the reporting requirements of the committee, including each financial year and each pre-election period. The clause sets out what information is

to be included in the reports, including whether compliance certificates were issued and the costs of government advertising.

Clause 30 sets out that the committee may also provide additional reports for sensitive information to be provided to the Finance Committee.

Miscellaneous

Clause 31 sets out that an offence against this Act is a summary offence.

Clause 32 sets out the responsibilities of responsible persons where a government entity has more than one accountable officer.

Clause 33 provides that in relation to this Act, a decision of the Finance Committee is to be made with bipartisan support.

Clause 34 sets out that the Governor-in-Council may make regulations under this Act.

Schedule 1 sets out the Advertising Code of Conduct.

Schedule 2 provides the dictionary for the terms in the Act.