

## **EXPLANATORY MEMORANDUM**

### **Electoral Amendment (Access to Ministers) Bill 2012 (WA)**

#### Overview of the Bill

The purpose of the Bill is to prevent the promotion of functions, gatherings or events to raise funds for a political party or purpose in a way that suggests that attendees will gain access to a Minister.

To this end, the Bill:

- Proposes the inclusion of a new provision in the *Electoral Act 1907 (WA)* that will make it an offence
  - for any person to promote a political fundraising event in a way that suggests that attendees will have access to a Minister at the event or in association with it; and
  - for any person to organise, hold or conduct a political fundraising event that is promoted in a way that suggests that attendees will have access to a Minister at the event.
- Makes a person found guilty of either offence liable for a fine not exceeding \$10 000.

The Bill is to be limited in its operation. The Bill will not prohibit:

- party fundraisers that advertise access to a member of Parliament in their capacity as a member of Parliament; or
- charity fundraisers that promote access to Ministers.

#### **Clause Notes**

##### Clause 1

This clause contains the title of the Bill.

##### Clause 2

This clause sets out the commencement provisions.

Proposed sections 1 and 2 of the proposed Act will come into operation on the day on which the Act receives the Royal Assent.

The rest of the proposed Act will come into operation on the day after the Act receives the Royal Assent.

##### Clause 3

This clause provides the object of the Bill.

#### Clause 4

This clause amends the *Electoral Act 1907 (WA)* by inserting a new section 176 after section 175ZG.

Sub section (1) defines certain terms used in the proposed section 176 to ensure the provisions of the Act are applied as intended.

***Minister*** is limited to a Minister in the State Government.

***political fundraising event*** is defined to include any function, gathering or other event of which one purpose is to raise funds for a political party or associated entity, a candidate or group in an election or any person who incurs expenditure for a political purpose during the disclosure period of an election as defined in section 175Q of the *Electoral Act 1907 (WA)*.

Sub section (2) makes it an offence for any person to promote a political fundraising event in a way that indicates that a Minister will be present and that attendees will have access to the Minister at or in association with the event.

A person who commits such an offence will be liable to a fine not exceeding \$10,000. This penalty is within the range imposed for offences in Part VI of the *Electoral Act 1907* in relation to the lodgement of returns disclosing electoral expenditure, gifts and income to the Electoral Commissioner. For example, under section 175U(1)(a) an agent of a political party that lodges a return outside the time specified by the Act will be liable for a fine not exceeding \$7,500. However, where an agent of a political party lodges a return in the knowledge that they contain particulars that are false or misleading they are liable to a fine not exceeding \$15,000 under section 175U(3).

Sub section (3) limits the reach of the Bill. The Bill only restricts political parties from selling access to a Minister for their own financial gain. Political parties that wish to promote access to their current members of Parliament - in that capacity - for the purpose of party fundraisers may continue to do so. This ensures that members of Parliament can continue to communicate and consult with their constituents as their elected representative. The Bill also permits Ministers to continue to make use of their title to raise funds for charitable activities and generally promote altruism and philanthropy throughout the community.

Sub section (4) creates an additional complementary offence. It will be an offence to organise, hold or conduct a political fundraising event that is promoted in a way that

indicates that a Minister will be present and that attendees will have access to the Minister at or in association with the event.

A person who commits such an offence will again be liable to a fine of not exceeding \$10,000.