

Electoral Reform Bill 2002

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Western Australia

LEGISLATIVE ASSEMBLY

Electoral Reform Bill 2002

A Bill for

An Act to —

- **amend the *Electoral Act 1907* and the *Constitution Acts Amendment Act 1899*;**
- **repeal the *Electoral Distribution Act 1947*; and**
- **make consequential amendments to other Acts, and for related purposes.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Electoral Reform Act 2002*.

2. Commencement

5 This Act comes into operation on a day fixed by proclamation.

Part 2 — Amendment of *Electoral Act 1907*

3. The Act amended

The amendments in this Part are to the *Electoral Act 1907**.

[* *Reprinted as at 15 December 2000.*

5 *For subsequent amendments see 2001 Index to Legislation of
 Western Australia, Table 1, p. 111.]*

4. Part IIA inserted

After Part II the following Part is inserted —

“

Part IIA — Representation in Parliament

Division 1 — Preliminary

16A. Definitions for this Part

In this Part —

15 “**average district enrolment**” means the total number
 of electors in the State divided by 57;

 “**Commissioner**” means an Electoral Distribution
 Commissioner appointed by section 16B(1) and
 includes a person appointed by or under
20 section 16B(2), (3) or (4) to act in the office of an
 Electoral Distribution Commissioner;

 “**Government Statistician**” means the Government
 Statistician appointed under the *Statistics
 Act 1907*.

16B. Electoral Distribution Commissioners

- 25 (1) For the purposes of this Part there shall be 3 Electoral
 Distribution Commissioners of whom —
- (a) one shall be the Chief Justice of Western
 Australia who shall be chairman;

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- (b) one shall be the Electoral Commissioner; and
- (c) one shall be the Government Statistician.
- 5 (2) If the office of Chief Justice of Western Australia is vacant, or the Chief Justice is absent or is for any other reason unable to act as a Commissioner, the Governor may appoint another Judge of the Supreme Court to act in the office of Commissioner and as chairman under subsection (1)(a) during the vacancy, absence or inability.
- 10 (3) A person acting in the office of the Electoral Commissioner under section 5D or 5H(2) shall, while so acting, act in the office of Commissioner under subsection (1)(b).
- 15 (4) If the office of the Government Statistician is vacant, or the holder of that office is absent or is for any other reason unable to act as a Commissioner, the Governor, on the recommendation of the Premier, may appoint a suitable person to act in the office of Commissioner under subsection (1)(c) during the vacancy, absence or inability.
- 20 (5) Before making a recommendation under subsection (4) the Premier shall consult with the Parliamentary leader or representative of each party and Independent members in the Parliament and shall seek the written views of the Parliamentary leader or representative of each party and Independent member in the Parliament.
- 25 (6) The Commissioners shall meet as often as may be necessary for carrying out their duties under this Part.
- 30 (7) For the purposes of this Part the Commissioners have the powers of a duly appointed Royal Commission, and of a chairman of a Royal Commission, under the *Royal Commissions Act 1968*.

5

- (8) The moneys reasonably required for the purposes of the Commissioners shall be charged, on the certificate of the Auditor General, to the Consolidated Fund, which this subsection appropriates to the necessary extent.

Division 2 — Districts, regions and representation

16C. Electoral districts and representation

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- (1) The State shall be divided into 57 electoral districts.
- (2) Each district will return one member to serve in the Assembly.

16D. Electoral regions and representation

- (1) The State shall be divided into 6 electoral regions.
- (2) Each region will return 6 members to serve in the Council.

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Division 3 — Division of State into districts and regions

16E. Requirement for division into districts and regions after this Part has effect

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The State shall be divided into districts and regions in accordance with this Part as soon as practicable after the day on which the *Electoral Reform Act 2002* comes into operation.

16F. Division required after each election

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The State shall be divided into districts and regions in accordance with this Part as soon as practicable after the day that is 2 years after polling day for each general election for the Assembly held after the day on which the *Electoral Reform Act 2002* comes into operation.

16G. Division may be directed by proclamation

- 5
- (1) The Governor may, by proclamation, direct that the State be divided into districts and regions in accordance with this Part as soon as practicable after the day of the issue of the proclamation.
 - (2) A proclamation shall be made under subsection (1) if both Houses of Parliament pass a resolution to that effect.

16H. Commissioners' functions

- 10
- (1) The Commissioners shall divide the State into districts and regions in accordance with this Part whenever a division of the State is required or directed under this Part.
 - (2) For the purposes of carrying out their duty under subsection (1) the Commissioners shall —
 - 15 (a) by notice published in the *Gazette* and in a newspaper circulating throughout the State —
 - 20 (i) invite written suggestions relating to the division of the State as required by subsection (1) to be lodged with the Commissioners within 30 days from the day of the publication of the notice in the *Gazette*; and
 - 25 (ii) invite written comments being comments on the suggestions lodged under subparagraph (i) to be lodged with the Commissioners within 14 days from the expiration of the period of 30 days referred to in that subparagraph;
 - 30 (b) forthwith after the expiration of the period of 30 days referred to in paragraph (a)(i), cause copies of the suggestions lodged with the Commissioners under paragraph (a)(i) to be

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- made available for perusal at the office of the Electoral Commissioner;
- 5 (c) consider all of the suggestions and comments lodged with the Commissioners under paragraph (a);
- 10 (d) within 42 days from the expiration of the period of 14 days referred to in paragraph (a)(ii), formulate proposals for the division of the State in the manner required under subsection (1) and the names proposed to be assigned to the districts and publish in the *Gazette* and in a newspaper circulating throughout the State —
- 15 (i) a map or maps setting out those proposals; and
- (ii) a statement of the Commissioners' reasons for making those proposals;
- 20 (e) consider any objections in writing that may be lodged with the Commissioners within 30 days from the day of the publication of the map or maps and statement in the *Gazette* under paragraph (d); and
- 25 (f) within 60 days from the expiration of the period of 30 days referred to in paragraph (e), by notice published in the *Gazette*, divide the State in the manner required under subsection (1).
- (3) Any additional details and explanatory information that the Commissioners think appropriate may be included on or published with the map or maps mentioned in subsection (2)(d).
- 30 (4) The notice mentioned in subsection (2)(f) shall set out —
- (a) the average district enrolment at the day specified in section 16E, 16F or 16G(1) as the

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day as soon as practicable after which the division is to be carried out;

- (b) in respect of each of the 57 districts —
- (i) the name assigned to the district;
 - (ii) the boundaries fixed for the district;
 - (iii) the number of electors within the boundaries as so fixed; and
 - (iv) the number of square kilometres in the area of the district;

and

- (c) the districts included in each of the regions,

and shall include a map or maps showing the boundaries of the districts and the boundaries of the regions.

- (5) Suggestions under subsection (2)(a)(i), comments under subsection (2)(a)(ii) and objections under subsection (2)(e) may be made by any person.

16I. Basis for division of the State into districts

- (1) The Commissioners shall divide the State into districts in accordance with the principles that —

(a) if a district has an area of less than 100 000 square kilometres, the number of electors comprised in the district at the day specified in section 16E, 16F or 16G(1) as the day as soon as practicable after which the division is to be carried out must not be more than 10% greater, or more than 10% less, than the average district enrolment on the day so specified; and

(b) if a district has an area of 100 000 square kilometres or more, the sum of —

- (i) the number of electors comprised in the district at the day specified in

section 16E, 16F or 16G(1) as the day as soon as practicable after which the division is to be carried out; and

(ii) the additional large district number,

5 must not be more than 10% greater, or more than 20% less, than the average district enrolment at the day specified in section 16E, 16F or 16G(1) as the day as soon as practicable after which the division is to be carried out.

10 (2) In subsection (1)(b) —

“additional large district number” means 0.5% of the number of square kilometres in the area of the district.

16J. Basis for division of the State into regions

15 (1) The Commissioners shall divide the State into regions so that those regions generally reflect the recognised communities of interest and land use patterns in the State and so that —

20 (a) 3 contiguous regions, to be known, respectively, as the North Metropolitan Region, the South Metropolitan Region and the East Metropolitan Region —

(i) each consist of complete and contiguous districts; and

25 (ii) together form an area that is generally coextensive with the metropolitan area of Perth;

30 (b) one region, to be known as the Mining and Pastoral Region, consists of complete and contiguous districts that together form an area that is remote from Perth and in which the land use is primarily for mining and pastoral purposes;

(c) one region, to be known as the Agricultural Region, consists of complete and contiguous

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districts that together form an area that is generally south, or south and west, of and adjacent to the Mining and Pastoral Region and in which the land use is primarily for agricultural purposes; and

- (d) the remaining region, to be known as the South West Region, consists of complete and contiguous districts.

(2) In subsection (1) —

“metropolitan area of Perth” means the part of the State that comprises —

- (a) the region that was, as at the day specified in section 16E, 16F or 16G(1) as the day as soon as practicable after which the division is to be carried out, described in the Third Schedule to the *Metropolitan Region Town Planning Scheme Act 1959*; and
- (b) Rottnest Island.

16K. Matters to be considered in dividing the State into regions and districts

In making the division of the State into regions and districts the Commissioners shall give due consideration to —

- (a) community of interest;
- (b) land use patterns;
- (c) means of communication and distance from the capital;
- (d) physical features;
- (e) existing boundaries of regions and districts;
- (f) existing local government boundaries; and
- (g) the trend of demographic changes, but not so as to make a forward projection of elector numbers.

16L. Power of Commissioners to modify boundaries of districts

5 In the exercise of the powers conferred on the Commissioners by this Part, the boundaries of the districts may be modified by the Commissioners by excising portions from them, or by adding other portions to them and the districts may be designated and redesignated.

16M. Effect of notice dividing the State into districts and regions

10 On and by virtue of a notice being published in the *Gazette* under section 16H(2)(f), the division of the State by the Commissioners into districts and regions as set out in that notice takes effect and has the force of
15 law and applies in respect of —

- (a) elections in districts held after the date of the publication of the notice other than elections held before the first general election for the Assembly held after that date; and
- 20 (b) elections in regions held after the date of the publication of the notice other than elections held before the first general election for the Council held after that date,

25 unless and until a further division of the State into districts and regions takes effect under this section.

”.

5. Section 24 amended

Section 24(3) is amended by deleting “under section 3(2)(f) of the *Electoral Distribution Act 1947*”.

30 **6. Section 51 amended**

Section 51(2) is amended by deleting “under the *Electoral Distribution Act 1947*”.

Part 3 — Amendment or repeal of other Acts

7. Constitution Acts Amendment Act 1899 amended

- (1) The amendments in this section are to the *Constitution Acts Amendment Act 1899**.

5 [* Reprinted as at 8 June 2001.
For subsequent amendments see 2001 Index to Legislation of
Western Australia, Table 1, p. 72 and Acts Nos. 24 and 25 of
2001 and Nos. 5, 20 and 24 of 2002.]

- (2) Section 5 is amended as follows:

- 10 (a) by deleting “34” and inserting instead —
“ 36 ”;
- (b) by deleting “as defined under section 6”.

- (3) Section 6 is repealed.

- 15 (4) Sections 18 and 19 are repealed and the following section is
inserted instead —

“

18. Constitution of Legislative Assembly

20 The Legislative Assembly shall consist of 57 elected
members who shall be returned and sit for electoral
districts.

”.

8. Electoral Distribution Act 1947 repealed and transitional provisions

- (1) The *Electoral Distribution Act 1947* is repealed.

- 25 (2) In subsection (3) —
“elections in districts”, “elections in regions” and “general
election” have the same meanings as they have,
respectively, in the *Electoral Act 1907*;

“previous electoral distribution” means the division of the State into electoral districts and electoral regions for the election of members of the Legislative Assembly and the Legislative Council that was in effect on 10 February 2001.

- 5 (3) The previous electoral distribution continues to apply in respect of —
- (a) elections in districts held before the first general election for the Legislative Assembly held after the commencement of this Act;
- 10 (b) elections in regions held before the first general election for the Legislative Council held after the commencement of this Act; and
- (c) the representation of electoral districts and electoral regions by members of the Legislative Assembly and the
- 15 Legislative Council elected —
- (i) before the commencement of this Act;
- (ii) at elections referred to in paragraphs (a) and (b); or
- (iii) under sections 156C and 156D of the *Electoral Act 1907* before 22 May next following the first
- 20 general election for the Legislative Council held after the commencement of this Act.

9. *Juries Act 1957* amended

- (1) The amendments in this section are to the *Juries Act 1957**.

25 [* Reprinted as at 3 July 2000.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 188.]

- (2) Section 11(1) is amended by deleting “the *Electoral Distribution Act 1947*, or any other” and inserting instead —
- 30 “ any ”.

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10. *Salaries and Allowances Act 1975* amended

- (1) The amendments in this section are to the *Salaries and Allowances Act 1975**.

[* *Reprinted as at 8 September 2000.*

5 *For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 335.]*

- (2) Section 6(6) is amended by deleting “action taken under the *Electoral Distribution Act 1947*” and inserting instead —

10 “
a subsequent division of the State into electoral districts and electoral regions
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