

# WESTERN AUSTRALIAN RESOURCES HERITAGE FUND BILL 2007 (E.197)

## EXPLANATORY MEMORANDUM

(Introduced by Hon. John Day, MLA)

This bill provides for the establishment of the Western Australian Resources Heritage Fund (**Fund**). The Fund is modelled on a successful scheme that has been operating in the province of Alberta, Canada for over 30 years. The purpose of the bill is to create a secure capital fund using a proportion of Western Australia's considerable earnings from non-renewable resources. Once established, the Fund will generate a stable, long term income stream for the benefit of future generations of Western Australians when the State's non-renewable resources are depleted.

The State government is authorized to transfer to the Fund a proportion of revenue received from non-renewable resources commencing on 1 July 2008, for the preceding 12 month period, and on 1 July in each following year. The capital value of the Fund will be enhanced by a provision that will prohibit any transfer or expenditure out of the Fund (other than to meet operating expenses) before 1 July 2012. Thereafter, once a year, the income of the Fund for the previous year may be transferred to the State Government to assist in the development of the State or otherwise for the benefit of its residents, net of an amount to be retained to 'inflation proof' the Fund and maintain its long term capital value. Such expenditure will need to be approved by both Houses of Parliament.

The Fund will be managed by a professionally qualified independent board, which will have responsibility for investment of the Fund with a view to maximizing long term returns. The Board's activities will be subject to Ministerial oversight and with reports to be provided to Parliament every three months.

- Clause 1.** This is a formal clause providing that the proposed Act is to be cited as the *Western Australian Resources Heritage Fund Act 2007*.
- Clause 2.** This clause provides the commencement dates for the proposed Act.
- Clause 3.** This clause defines terms used in the proposed Act.
- Clause 4.** This clause provides for the Act to be administered by the Western Australian Resources Heritage Fund Board (**Board**), subject to the general direction and control of the Minister.
- Clause 5.** This clause establishes the Board and constitutes it as a body corporate.
- Clause 6.** This clause provides that the Board is an agent of the Crown and enjoys the status, immunities and privileges of the Crown.
- Clause 7.** This clause provides for the membership of the Board, their method of appointment, the criteria for eligibility for appointment to the Board and the term of office of Board members.
- Clause 8.** This clause provides that the constitution and proceedings of the Board shall be prescribed by regulations.
- Clause 9.** This clause provides for the remuneration of members of the Board.

- Clause 10.** This clause provides in relation to the execution of instruments by the Board by common seal or signature.
- Clause 11.** This clause provides power for the Board to employ staff, and the terms and conditions of employment of such staff.
- Clause 12.** This clause provides for the Board by arrangement to make use of the staff or facilities of the State.
- Clause 13.** This clause provides for the delegation of the Board's powers and duties to certain eligible persons as defined in the clause.
- Clause 14.** This clause provides protection from personal liability for any act performed in good faith in exercise of a power or performance of a duty of the Board, by any member of the Board or any other person authorised to act on behalf of the Board.
- Clause 15.** This clause establishes the Fund to be administered by the Board, provides for the establishment of an account with Treasury to form part of the Trust Fund under section 10 of the *Financial Management Act 2006* to be known as The Western Australian Resources Heritage Fund Account (**Fund Account**), and specifies the moneys that will comprise the Fund held in the Fund Account from time to time.
- Clause 16.** This clause enables the Minister, within 28 days of 1 July 2008, to transfer a proportion of the total non-renewable resources revenue received by the State in the 12 month period immediately preceding that date, and within 28 days of 1 July each subsequent year to transfer a proportion of the amount received for the preceding 12 months.
- The Minister is required to inform both Houses of Parliament of the amount transferred and the proportion of non-renewable resource revenue for each year as soon as practicable after doing so.
- Clause 17.** This clause enables the Minister to transfer additional amounts to the Fund as appropriated by Parliament from time to time.
- Clause 18.** This clause makes provision with respect to the investments of the Fund, including the classes of assets in which the Board may invest the Fund from time to time and the policies and procedures that the Board must adhere to in making such investments.
- Clause 19.** This clause provides that the income of the Fund accrues to and forms part of the Fund, prohibits any transfer or other expenditure (except for operating expenses) before 1 July 2012, and provides that from 1 July 2012 there may be an annual transfer of the previous year's income (net of a retained amount under clause 20 to inflation proof the Fund) to the State for the development of the State or otherwise for the benefit of the people of the State.
- Clause 20.** This clause provides for the inflation proofing of the Fund, by requiring the annual income transferred to the State under clause 19 be net of an amount to be retained calculated by multiplying the total equity of the Fund by a specified inflation index.
- Clause 21.** This clause provides the Board with power to incur certain operating expenditure.

- Clause 22.** This clause provides that the Fund and its operations are subject to the provisions of the *Financial Management Act 2006* that regulates the financial administration, audit and reporting of statutory authorities.
- Clause 23.** This clause provides for the Minister to lay quarterly reports on the activities of the Fund and financial statements for the preceding quarter, for each of the first three quarters of each financial year.
- Clause 24.** This clause provides for the Governor to make regulations in respect of matters to be prescribed or otherwise as are necessary or convenient to be prescribed.