



ACT
Government

2012

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELECTION COMMITMENTS COSTING BILL 2012

EXPLANATORY STATEMENT

**Presented by
Mr Andrew Barr MLA
Treasurer**

ELECTION COMMITMENTS COSTING BILL 2012

Overview

The Territory does not currently have any legislation to formalise the process for costing election commitments. The costing of election commitments provides a degree of third party review, to provide some assurance to those interested that the costs are materially correct. Although the Treasury Directorate has been costing election commitments in accordance with an agreed Government process each election, formalising the costings process with legislation will improve transparency of the process during an election.

By formalising election commitment costings, the Territory will strengthen its legislative requirements regarding the provision of financial information to the community during an election. Formal election commitment costings will complement the existing requirement under the *Financial Management Act 1996* for a pre-election budget update to be released.

This Bill formalises a robust and equitable framework for the costing of election commitments in the Territory. Before polling day, it allows the leader of a registered party with one or more Members of the Legislative Assembly (MLA), or an MLA who is not a member of a registered party, to request a costing of a publicly announced election commitment during the costing period before an election of the Legislative Assembly. Further, the Bill allows on or after polling day, for the leader of a registered party with one or more Members before polling day, or another person nominated by the party, to request a costing of a publicly announced election commitment until the costing period ends.

While public servants serve the Government of the day during the ordinary business of government, the caretaker period prior to the election of the Legislative Assembly presents unique challenges when other parties have access to the Treasury Directorate for costing purposes. This Bill will ensure that during the costing period, the Treasury Directorate and political parties have a shared understanding of the roles and responsibilities of each body and will allow the Treasury Directorate to operate with a clearer degree of certainty during the election process.

In this way, the Territory will have a transparent costings process that will assist costings to occur in a non-partisan and objective manner.

Notes on Clauses

Clause 1 Name of Act

This clause is a formal provision setting out the name of the Act.

Clause 2 Commencement

The Act commences on the day after its notification day.

Clause 3 Dictionary

This clause specifies that the definitions contained at the end of the Act are part of the Act.

Clause 4 Notes

This clause explains that the notes included in the Act are explanatory only and are not part of the Act.

Clause 5 Requests to cost election commitments

This clause provides that before polling day in a costing period, a leader of a registered party with one or more MLAs, or an MLA who is not a member of a registered party, can request the Director-General of the Treasury Directorate to cost a publicly announced election commitment. As under the Act it is discretionary whether a costing is requested, it is the responsibility of the leader or MLA to determine whether the commitment in question needs to be costed/verified from the perspective of transparency.

For costings on or after polling day in a costing period, only a leader of a registered party with one or more MLAs before polling day, or another person nominated by the party can request the Director-General of the Treasury Directorate to cost a publicly announced election commitment. As under the Act it is discretionary whether a costing is requested, it is the responsibility of that person to determine whether the commitment in question needs to be costed/verified from the perspective of transparency.

Requests can only be made for publicly announced election commitments. Examples of when an election commitment has been publicly announced, is when a media release is issued or the election commitment is published on a party website.

Costing requests can only be made during the costing period being the period starting on the first day of the pre-election period and ending when the Chief Minister is elected on the first sitting day of the Legislative Assembly after the election.

The costing request must be in writing and state the policy to be costed, giving relevant details to be used in the costings and the purpose / intention of the policy. By requiring a written request, total costing transparency is ensured and misunderstandings of details or assumptions are minimised.

The Director-General is to make the following details on a costing request publicly available as soon as practicable: the name of the person making the request; the date the request was received and a description of what is to be costed.

A person cannot ask the Director-General to cost a publicly announced election commitment of another MLA or registered party of which the person is not a member.

Clause 6 Withdrawal of costing requests

A person can withdraw a costing request made by the person at any time by writing to the Director-General of the Treasury Directorate before the person is given a copy of the costing prior to its public release. This provides flexibility to a party or MLA if their election policies change for any reason.

Clause 7 Guidelines for costing election commitments

The Director-General of the Treasury Directorate can issue guidelines setting out administrative procedures for costing an election commitment. These guidelines may contain further detail on the process to be followed, proformas for costing requests or specify how the Treasury Directorate will cost requests.

Clause 8 Additional information for costing election commitments

If required, the Director-General of the Treasury Directorate can request additional information to cost an election commitment. The request must be in writing to the person who requested the costing. This is consistent with the initial costing request being in writing and ensures total costing transparency.

Clause 9 Costing of election commitments and publishing costings – before polling day

The Director-General of the Treasury Directorate must cost each request for an election commitment costing, and make the costing publicly available as soon as practicable. Examples of making a costing publicly available include publishing the costing on the Treasury website or issuing a media release. Before the costing is made publicly available, the Director-General must give a copy to the person who made the request. However, if the Director-General does not have sufficient information or has not had sufficient time to prepare a costing before polling day for the election, the Director-General will publicly release a statement to that effect. This ensures the public is aware of any costing requests for which costings were not able to be completed, and the reasons why. Further, if any costings are not completed before polling day, the costing is taken to be withdrawn and the Director-General must not begin or continue costing the election commitment.

Clause 10 Costing of election commitments and publishing costings – on or after polling day

The Director-General of the Treasury Directorate must cost each request for an election commitment costing, and make the costing publicly available as soon as practicable. Examples of making a costing publicly available include publishing the costing on the Treasury website or issuing a media release. Before the costing is made publicly available, the Director-General must give a copy to the person who made the request. However, if the Director-General does not have sufficient information or has not had sufficient time to prepare a costing before the first sitting day of the Legislative Assembly after the election, the Director-General will publicly release a statement to that effect. This ensures the public is aware of any costing requests for which costings were not able to be completed, and the reasons why. Further, if any costings are not completed before the first sitting day of the

Legislative Assembly after the election, the costing is taken to be withdrawn and the Director-General must not begin or continue costing the election commitment.

Clause 11 Request and disclosure of costing request information

During the costing period, costing information particular to a costing request must not be disclosed to anyone other than the person who made the request.

This non-disclosure requirement does not apply if the disclosure is allowed under the Act, such as the public release of the costing together with its associated costing request. The requirement also does not apply in relation to the exercise of a function under this Act, such as providing particulars of a costing request to public servants for the purpose of actioning the costing request.

Clause 12 Access to documents relating to costing request

In general, documents in relation to a costing request are exempt from the *Freedom of Information Act 1989* during the costing period except in some specific circumstances as detailed in this clause.

Clause 13 Regulation-making power

The Executive may make regulations for this Act.

Clause 14 Review of Act

The Minister must review the operation of the Act after the end of the costing period for the 2012 election and present a report by the last sitting day in October 2013 or if there is no sitting day in October 2013, the first sitting day after October 2013.

Dictionary

Outlines the definitions applicable to the Act.