



Auckland Regional Amenities Funding Act 2008

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Commencement see section 2

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Preamble

- (1) Several arts, educational, rescue, and community organisations that are vital to the Auckland region contribute to the well-being of the whole region by providing facilities or services to the community:

- (2) The organisations are an essential part of the fabric of the Auckland region and are necessary to make the region a vibrant and attractive place to live in and visit:
- (3) A significant proportion of those who visit or use, or otherwise benefit from, the organisations come from all the territorial authority districts in the Auckland region:
- (4) The organisations currently receive their funding from a range of sources by way of grants made in response to annual or periodic applications. In particular, they make separate applications to each of the territorial authorities and various trusts for funding. The grants resulting from applications are often ad hoc and short term:
- (5) This process does not provide a secure funding stream for the organisations and it does not necessarily result in all the territorial authorities in the Auckland region making a contribution to the organisations' funding:
- (6) A statutory framework is needed to provide adequate and secure funding for the organisations by all the territorial authorities in the Auckland region:
- (7) The existing statutory frameworks for regional funding of the Auckland War Memorial Museum and the Museum of Transport and Technology provide a model for the funding of the organisations:
- (8) Territorial authorities funding the organisations should have a formal role, through the Electoral College, in the decisions on funding:

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Auckland Regional Amenities Funding Act 2008.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions

3 Purposes

- (1) The first purpose of this Act is to establish a mechanism to provide adequate, sustainable, and secure funding for specified amenities that, by providing arts, education, rescue, or community facilities for or services to the Auckland region,—
 - (a) contribute to the well-being of the region; and
 - (b) contribute towards making Auckland a vibrant and attractive place to live in and visit.
- (2) The second purpose is to ensure that all the territorial authorities in the Auckland region are part of the mechanism and so contribute towards the funding of the specified amenities.

4 Interpretation

In this Act, unless the context otherwise requires,—

adjusted revenue from rates means the revenue from rates of a contributing authority multiplied by the differential factor shown opposite the contributing authority's name in Schedule 3

advisory officer means the advisory officer appointed under clause 12 of Schedule 4

Amenities Board means the Amenities Board established by section 11

assessment criteria means the assessment criteria in section 14(1)

Auckland region means the region of the Auckland Regional Council

contributing authority means a territorial authority listed in the first column of Schedule 3

district means,—

- (a) for the Franklin District Council, that part of the district within the Auckland region; and
- (b) for every other contributing authority, the district of the contributing authority

Electoral College means the Electoral College of territorial authority representatives established by section 13(1) of the Auckland War Memorial Museum Act 1996

establishment day means the day 28 days after this Act comes into force

financial year means the period starting on 1 July and ending with 30 June in the following year that is the financial year of the Funding Board

first financial year means the first full financial year after the commencement of this Act

fourth financial year means the financial year after the third financial year

Funding Board means the Auckland Regional Amenities Funding Board established by section 6

funding principles means the funding principles in section 21

Local Government Commission means the Local Government Commission appointed under the Local Government Act 2002

long-term plan—

- (a) means a specified amenity's long-term plan described in section 22; and
- (b) if the plan has been amended, means the plan as amended

public notice means a notice published in 1 or more newspapers circulating in the Auckland region

reorganisation scheme has the meaning given to it by section 5 of the Local Government Act 2002

revenue from rates means revenue from all rates set under the Local Government (Rating) Act 2002 except—

- (a) the part of the revenue from any general rate set under section 13 of that Act that is to be applied to the provision of water supply or wastewater services; and
- (b) any targeted rate for the provision of water or wastewater services set under section 16 of that Act; and
- (c) any targeted rate for water supply set under section 19 of that Act; and
- (d) in the case of the Franklin District Council, any rate set in respect of land outside the Auckland region

second financial year means the financial year after the first financial year

specified amenity—

- (a) means an organisation listed in Schedule 1; and
- (b) includes an organisation that is the subject of a notice under section 18 that has come into force under section 20(3); and
- (c) does not include an organisation described in paragraph (a) or (b) that is the subject of a notice under section 19(6) that has come into force under section 20(3)

third financial year means the financial year after the second financial year.

Part 2

Funding mechanism

Subpart 1—Administrative bodies

- 5 Funding Board and Amenities Board and purpose of Act**
In performing their functions and duties, and exercising their powers, under this Act, the Funding Board and the Amenities Board must act in accordance with the purpose of this Act set out in section 3(1).

Funding Board

- 6 Establishment**
This Act establishes the Auckland Regional Amenities Funding Board.
- 7 Membership**
- (1) The Funding Board has 10 members.
 - (2) The Electoral College appoints 6 members.
 - (3) The Amenities Board appoints 4 members.
 - (4) One of the members appointed by the Electoral College must be a person who, in the opinion of the Electoral College, is appropriate to represent the interests of Māori in the Auckland region.
 - (5) The members must be persons who have the management skills, experience, and professional judgment necessary to

do the Funding Board's functions, in the opinion of those appointing them.

- (6) The following persons must not be appointed as members:
- (a) a person who is currently an elected or appointed member of a contributing authority; or
 - (b) the chief executive of a contributing authority; or
 - (c) an employee of a contributing authority; or
 - (d) a current board member of a specified amenity; or
 - (e) a current officer or employee of a specified amenity.

8 Charitable purposes

- (1) The Funding Board is established exclusively for charitable purposes within New Zealand.
- (2) Every action that the Funding Board does under this Act is done exclusively for charitable purposes within New Zealand.
- (3) Every business that the Funding Board carries on under this Act is carried on exclusively for charitable purposes within New Zealand.
- (4) No business that the Funding Board carries on under this Act is carried on for the pecuniary gain of any person.

9 Powers

For the purpose of performing its functions under this Act, the Funding Board—

- (a) has all the necessary rights, powers, and privileges; and
- (b) may exercise all the necessary rights, powers, and privileges; and
- (c) may incur all necessary liabilities and obligations.

10 Administration

The administrative provisions applying to the Funding Board are in Schedule 4.

Amenities Board

11 Amenities Board

This Act establishes the Amenities Board.

12 Function

- (1) The Amenities Board's function is to make the appointments to the Funding Board required by section 7(3).
- (2) The Amenities Board must make the appointments by majority vote.
- (3) If the votes are equal, the person presiding has a casting vote as well as a deliberative vote.
- (4) The person whom the members elect as chairperson must preside at all meetings of the Amenities Board at which he or she is present. If he or she is absent from a meeting, the members present must appoint one of their number to be the chairperson of the meeting.
- (5) The quorum of the Amenities Board is—
 - (a) half of the members if the number of members is even; or
 - (b) a majority of members if the number of members is odd.
- (6) The Amenities Board may do its function even if there is a vacancy in its membership.
- (7) The Amenities Board must comply with subsections (2) to (6), but otherwise regulates its own proceedings.

13 Membership

- (1) Every specified amenity must appoint 1 representative to the Amenities Board.
- (2) An appointment as a specified amenity's representative ends when the amenity or the representative ends the appointment.
- (3) When an appointment as a specified amenity's representative ends, the amenity must appoint another representative.

Subpart 2—Specified amenities*Assessment criteria***14 Assessment criteria**

- (1) The assessment criteria that the Funding Board and the Electoral College apply under sections 17 to 19 are as follows:
 - (a) whether funding the organisation meets the purposes of this Act; and

- (b) whether the organisation provides its facilities or services to residents of and visitors to the Auckland region; and
 - (c) whether the facilities or services that the organisation provides to residents of and visitors to the Auckland region are facilities or services that are not otherwise generally available; and
 - (d) whether the residents of the Auckland region visit or use, or otherwise benefit from, the organisation; and
 - (e) whether, according to independent market research, the residents of the Auckland region perceive the organisation as a regional one; and
 - (f) whether the organisation has proper governance and management structures; and
 - (g) whether the organisation has structures for ensuring that any funding provided to it under this Act is used predominantly for the organisation's facilities or services; and
 - (h) whether the organisation has operated within a properly prepared budget, annual business plan, and long-term plan over the 5 years immediately before the date on which the Funding Board or the Electoral College applies this criterion; and
 - (i) whether the organisation has audited financial accounts covering the 5 years immediately before the date on which the Funding Board or the Electoral College applies this criterion; and
 - (j) whether the organisation is a registered charitable entity under the Charities Act 2005.
- (2) The Funding Board must monitor the specified amenities' compliance with the assessment criteria.

15 Discretion in application of assessment criteria

The Funding Board and the Electoral College each has an absolute discretion in deciding—

- (a) whether or not an organisation satisfies an assessment criterion; and
- (b) the extent to which an organisation satisfies an assessment criterion.

*Procedure***16 Organisation applies to be specified amenity**

- (1) The Electoral College may invite organisations to apply to be a specified amenity.
- (2) The invitation must be given by public notice.
- (3) The public notice may require that applications be made only—
 - (a) by a particular type of arts, educational, rescue, or community organisation; or
 - (b) on terms that the Electoral College considers appropriate.
- (4) An application must—
 - (a) be in the form that the Electoral College specifies in the notice; and
 - (b) contain, or be accompanied by, any information that the Electoral College specifies in the notice.

17 Funding Board assesses application

- (1) The Funding Board must assess every application that the Electoral College receives under section 16.
- (2) The Funding Board's procedure for doing its assessments—
 - (a) must be determined by it; and
 - (b) may include hearing an applicant in person.
- (3) The Funding Board must give the Electoral College, in writing or electronically,—
 - (a) its assessment of whether an applicant satisfies—
 - (i) the requirements in the public notice, if there were any; and
 - (ii) the assessment criteria; and
 - (b) its recommendation on whether the applicant should or should not be a specified amenity; and
 - (c) its reasons for its assessment and recommendation.

18 Electoral College decides whether organisation to be specified amenity

The Electoral College must—

- (a) receive the Funding Board's assessment and recommendation under section 17; and

- (b) apply the assessment criteria; and
- (c) decide whether an applicant is to be a specified amenity; and
- (d) if an applicant is to be a specified amenity, give a notice as described in section 20.

19 Electoral College decides whether organisation to be suspended or cease to be specified amenity

- (1) This section applies if the Funding Board considers that a specified amenity no longer satisfies 1 or more of the assessment criteria.
- (2) The Funding Board may give a notice to the specified amenity requiring it to satisfy the criterion or criteria within such reasonable period as the Board specifies.
- (3) The Funding Board must provide an opportunity for the amenity to be heard in relation to any notice before deciding that the amenity should be suspended or cease to be a specified amenity.
- (4) If the specified amenity does not satisfy the criterion or criteria within the period specified by the Funding Board, the Funding Board may give the Electoral College, in writing or electronically,—
 - (a) its recommendation on whether the specified amenity should be suspended from being or cease to be a specified amenity; and
 - (b) its reasons for its recommendation.
- (5) The Electoral College must—
 - (a) receive the Funding Board's recommendation; and
 - (b) apply the assessment criteria; and
 - (c) decide whether the specified amenity should be suspended from being or cease to be a specified amenity.
- (6) If the Electoral College decides that a specified amenity listed in Schedule 1 should cease to be a specified amenity, the following provisions apply:
 - (a) the Electoral College must request the Minister of Local Government to recommend to the Governor-General the making of an Order in Council amending Schedule 1 by removing the name of the amenity; and

- (b) on receiving the request, the Minister may make the recommendation; and
 - (c) on receiving the recommendation, the Governor-General may make the Order in Council; and
 - (d) on the making of the Order in Council, the Electoral College must give notice as described in section 20 that the amenity is no longer a specified amenity.
- (7) If the Electoral College decides that a specified amenity not listed in Schedule 1 should cease to be a specified amenity, it must give notice as described in section 20 that the amenity is no longer a specified amenity.

20 Notices

- (1) The Electoral College gives a notice under section 18 or 19 by publishing it in the *Gazette*.
- (2) The Electoral College must—
 - (a) notify the notice; and
 - (b) send a copy of the notice to each of the contributing authorities and the Amenities Board; and
 - (c) make copies of the notice available for inspection by members of the public free of charge.
- (3) A notice given under section 18 or 19 comes into force—
 - (a) 28 days after the date of the notice's publication in the *Gazette*; or
 - (b) on a later date specified in the notice.
- (4) A notice given under section 18 that an organisation is a specified amenity lasts until a notice is given under section 19 that the specified amenity is no longer a specified amenity.
- (5) A notice given under section 18 or 19 is a regulation for the purposes of the Interpretation Act 1999, the Acts and Regulations Publication Act 1989, and the Regulations (Disallowance) Act 1989.

Subpart 3—Funding process

*Funding principles***21 Funding principles**

- (1) The funding principles to which the Funding Board and the Electoral College must have regard under sections 24 and 28 are as follows:
 - (a) the primary purpose of the funding is to contribute to the expenses that the specified amenity must incur to provide its facilities or services; and
 - (b) funding is not available for capital expenditure; and
 - (c) funding is not available for any part of facilities or services that the specified amenity provides outside the Auckland region; and
 - (d) funding is not available for facilities or services that at any time in the 5 years immediately before the date on which the Funding Board or the Electoral College applies this paragraph have been provided funding by—
 - (i) a Crown entity, as defined in section 7(1) of the Crown Entities Act 2004; or
 - (ii) a department specified in Schedule 1 of the State Sector Act 1988; and
 - (e) funding for the retention and preservation of a specified amenity's library or collection takes priority over the amenity's other expenses; and
 - (f) funding is available only if the specified amenity has made all reasonable endeavours to maximise its funding from other available funding sources; and
 - (g) total funding for all specified amenities assessed for a financial year must not exceed the maximum total levy for that year under section 34; and
 - (h) any other funding principle that the Electoral College publicly notifies under subsection (3).
- (2) The Funding Board may recommend to the Electoral College that it add funding principles to those in subsection (1).
- (3) The Electoral College—
 - (a) may receive a recommendation from the Funding Board; and

- (b) with or without a recommendation, may add funding principles; and
- (c) must give public notice of the added funding principles.

Funding applications

22 Specified amenity may prepare long-term plan

- (1) A specified amenity may—
 - (a) prepare a plan covering a period of at least 5 years and at most 10 years; and
 - (b) send the plan to the Funding Board.
- (2) The Funding Board may consider and approve the plan.
- (3) The Funding Board's approval of a plan is not a commitment by the Funding Board to provide funding for anything in the plan.

23 Specified amenity applies for funding

- (1) This section applies if a specified amenity seeks funding from the Funding Board for a financial year.
- (2) The specified amenity must apply to the Funding Board on or before 30 November in the year before the financial year for which funding is sought.
- (3) The application must include—
 - (a) a statement of the amount of funding that the specified amenity seeks from the Funding Board for the financial year; and
 - (b) any information that the Funding Board requires to assess the specified amenity's satisfaction of the assessment criteria currently and in the future; and
 - (c) a statement of how the application complies with the funding principles; and
 - (d) the specified amenity's annual plan for the financial year for which funding is sought prepared under subsections (4) and (5).
- (4) The specified amenity's annual plan must state the following matters:
 - (a) the specified amenity's purpose; and
 - (b) the specified amenity's objectives; and

- (c) the performance targets and other measures by which to assess the specified amenity's achievement of the objectives; and
 - (d) the nature and scope of the facilities or services to be provided by the specified amenity; and
 - (e) the indicative costs of the activities; and
 - (f) the sources of funds for the activities; and
 - (g) the details of any charges that the specified amenity proposes to make for the facilities or services.
- (5) The plan must state the matters—
- (a) in particular terms for the financial year for which funding is sought; and
 - (b) in general terms for each of the following 2 financial years.

24 Funding Board assesses application

- (1) The Funding Board must—
- (a) assess an application made by a specified amenity under section 23; and
 - (b) decide provisionally on the amount of funding to be provided to the specified amenity.
- (2) The Funding Board may request more information from the specified amenity for the purpose of making its assessment and provisional decision.
- (3) The Funding Board need not include a specified amenity in the funding plan prepared under section 25 if the amenity does not give the Board the requested information by—
- (a) 30 November in the year before the financial year for which funding is sought; or
 - (b) a later time that the Board specifies.
- (4) In making its assessment and provisional decision, the Funding Board must have regard to—
- (a) the funding principles; and
 - (b) the specified amenity's long-term plan, if it—
 - (i) includes the financial year for which funding is sought; and
 - (ii) has been approved under section 22.

*Funding plans***25 Funding Board prepares draft funding plan**

- (1) The Funding Board must prepare a draft funding plan for every financial year.
- (2) The draft funding plan must state the following matters for the financial year:
 - (a) the nature of the facilities or services to be provided by each specified amenity; and
 - (b) the funding sought by each specified amenity; and
 - (c) the amount of funding that the Funding Board proposes to grant to each specified amenity; and
 - (d) any conditions that the Funding Board proposes to impose on the provision of funding to a particular specified amenity; and
 - (e) the maximum amount of remuneration payable by the Funding Board to its members; and
 - (f) the maximum amount of remuneration payable by the Funding Board to its advisory officer; and
 - (g) the maximum amount of the Board's reasonable administrative costs; and
 - (h) the total levy that the Funding Board proposes, which may not exceed the maximum total levy calculated under section 34; and
 - (i) any other information that is necessary to enable an informed assessment of the total levy that the Funding Board proposes.
- (3) The draft funding plan must state the matters—
 - (a) in particular terms for the financial year to which the plan relates; and
 - (b) in general terms for each of the following 2 financial years.
- (4) The Funding Board must include in the draft funding plan an explanation of any significant changes between the total levy it proposes and the levy specified in the plan adopted for the immediately preceding financial year.

26 Funding Board and Electoral College confer over draft funding plan

- (1) The chairpersons of the Funding Board and the Electoral College must decide jointly—
 - (a) whether a meeting of the Electoral College is to be held to consider—
 - (i) the matter of the total levy that the Board proposes in its draft funding plan; or
 - (ii) any other matter in the plan; and
 - (b) if a meeting is to be held, whether it is to be held jointly with the Board or separately from it.
- (2) Every meeting of the Electoral College to consider a matter must be held before the draft funding plan is published under section 27(1)(a).

27 Funding Board consults on draft funding plan

- (1) When the Funding Board is satisfied with its draft funding plan, it must, as soon as is practicable,—
 - (a) publicly notify it; and
 - (b) send it to the Electoral College, the specified amenities, and the contributing authorities.
- (2) The Electoral College, a specified amenity, or any other person may make a written or electronic submission to the Funding Board on any matter in the draft funding plan within 1 month after the day on which the plan is publicly notified.
- (3) A contributing authority—
 - (a) may make a written or electronic submission to the Funding Board on any matter in the draft funding plan within 1 month after the day on which the draft plan is publicly notified; and
 - (b) must send a copy of the submission to the Electoral College.
- (4) The Funding Board must give a reasonable opportunity to every person who makes a submission to appear and be heard on the submission.
- (5) Meetings of the Funding Board, or a committee of the Funding Board, to hear submissions on the draft funding plan must be open to the public.

- (6) The Funding Board must—
- (a) consider the submissions; and
 - (b) make any modifications to the draft funding plan that the Board considers appropriate in light of the submissions; and
 - (c) refer the plan to the Electoral College; and
 - (d) request the Electoral College's approval of the Board's recommendation on the total levy.

28 Electoral College considers funding plan

The Electoral College must—

- (a) consider the Funding Board's recommendation on the total levy; and
- (b) decide whether or not to approve the recommended total levy, having regard to the funding principles; and
- (c) advise the Funding Board of its decision.

29 If Electoral College does not approve levy

- (1) This section applies if the Electoral College decides not to approve the recommended total levy under section 28(b).
- (2) The dispute must be referred to an independent arbitrator.
- (3) The arbitrator must be appointed by—
 - (a) the Electoral College and the Funding Board jointly; or
 - (b) if they are unable to agree on the appointment, the Local Government Commission.
- (4) The arbitrator must—
 - (a) take into account the submissions of the Funding Board and the Electoral College; and
 - (b) take into account the Funding Board's duties; and
 - (c) decide on the total levy, which may not exceed the maximum total levy calculated under section 34.
- (5) The total levy that the arbitrator decides on is the total levy to be used by the Funding Board for the purpose of fixing the individual levies under section 35.
- (6) The Funding Board must reconsider its draft funding plan and the amount of funding it provisionally decided to provide to each specified amenity to take account of the total levy that the arbitrator decides on.

30 Funding Board adopts funding plan

- (1) The Funding Board must have a meeting to deliberate on and adopt its funding plan.
- (2) The meeting—
 - (a) must be open to the public; and
 - (b) must be held no later than 30 April immediately before the start of the financial year to which the plan relates.
- (3) Within 20 working days of adopting the funding plan, the Funding Board must—
 - (a) make a copy available for public inspection; and
 - (b) give public notice that a copy is available for public inspection; and
 - (c) send a copy to each contributing authority and each specified amenity.

*First financial year***31 Individual payments for first financial year**

- (1) The Funding Board must pay each specified amenity the amount shown opposite the amenity's name in Schedule 2 for the first financial year.
- (2) However, the Funding Board must not pay the amount to Auckland Zoo unless section 43 applies before 1 July in the first financial year.
- (3) The Funding Board must be paid \$300,000 for its administrative costs for the first financial year.
- (4) Sections 22 to 30 do not apply in respect of the first financial year.

32 Individual levies for first financial year

- (1) The Funding Board must calculate the individual levy of each contributing authority for the first financial year using the formula—

$$\frac{\text{adjusted revenue}}{\text{total adjusted revenue}} \times \text{total amount}$$

- (2) The items in the formula are defined in subsections (3) to (5).

- (3) **Adjusted revenue** means the adjusted revenue from rates of the contributing authority in the previous financial year.
- (4) **Total adjusted revenue** means the total adjusted revenue from rates of all contributing authorities in the previous financial year.
- (5) **Total amount** means the total amount to be paid under section 31(1) to (3).

33 Contributing authorities pay levies for first financial year

- (1) This section applies to the individual levy of each contributing authority for the first financial year.
- (2) The contributing authority must pay the amount of the levy—
- out of its general revenues; and
 - to the Funding Board; and
 - on the next 1 July after the commencement of this Act.

Funding levies

34 Maximum individual and total levies for financial years after first financial year

- (1) The Funding Board must calculate the maximum individual levy of each contributing authority for each financial year after the first financial year using the formula—

$$\frac{\text{adjusted revenue}}{\text{total adjusted revenue}} \times \text{maximum total levy of contributing authorities}$$

- (2) The items in the formula are defined in subsections (3) to (5).
- (3) **Adjusted revenue** means the adjusted revenue from rates of the contributing authority in the previous financial year.
- (4) **Total adjusted revenue** means the total adjusted revenue from rates of all contributing authorities in the previous financial year.
- (5) **Maximum total levy of contributing authorities** is,—
- for the second financial year,—
 - if section 43 applies as at the specified date, \$16 million; or
 - if section 43 does not apply as at the specified date, \$12 million; and
 - for the third financial year,—

- (i) if section 43 applies as at the specified date, \$19 million; or
 - (ii) if section 43 does not apply as at the specified date, \$15 million; and
 - (c) for the fourth financial year and each following financial year, the amount equal to 2% of the total adjusted revenue from rates of all the contributing authorities in the previous financial year.
- (6) In subsection (5), **specified date** means 30 November in the year immediately before the financial year for which the maximum total levy is being calculated.
- (7) For each financial year after the first financial year, the individual levy of each contributing authority must bear the same proportion to the total of the individual levies of all the contributing authorities as the maximum individual levy of that contributing authority bears to the maximum total levy of the contributing authorities.

35 Funding Board resolves to fix individual levies

- (1) This section applies when the Funding Board has the following for a financial year after the first financial year:
- (a) either—
 - (i) the Electoral College's approval of the total levy; or
 - (ii) the arbitrator's decision on the total levy; and
 - (b) an adopted funding plan.
- (2) The Funding Board must—
- (a) fix the amounts of the individual levies of each contributing authority by way of resolution; and
 - (b) send a copy of the resolution to each contributing authority.
- (3) The Funding Board must comply with subsection (2) on or before 30 April before the financial year for which the levy is imposed.

36 Contributing authorities pay levies for financial years after first financial year

- (1) This section applies to the individual levy of each contributing authority fixed in the resolution of the Funding Board under section 35(2).
- (2) The contributing authority must pay the amount of the levy—
 - (a) out of its general revenues; and
 - (b) to the Funding Board; and
 - (c) on the next 1 July after the resolution.

37 If contributing authority's district changes

- (1) If a contributing authority's district changes because an Order in Council gives effect to a reorganisation scheme,—
 - (a) the area that was previously subject to a levy under this Act continues to be subject to a levy; and
 - (b) the previously applicable differential factor continues to apply for the purpose of calculating the adjusted revenue from rates in respect of the land in that area.
- (2) However, subsection (1) does not apply if any of subsections (3) to (6) applies.
- (3) If a result of the Order in Council is that a contributing authority absorbs an area from another contributing authority, the Funding Board—
 - (a) must apply the differential factor applicable to the absorbing contributing authority to the area absorbed; and
 - (b) must do so for the year after the absorption and all later years.
- (4) If a result of the Order in Council is that part only of the district of a local authority is levied, the Funding Board must not take any account of that result.
- (5) The Funding Board is not authorised by subsection (3) or (4) to impose a levy on an area that is outside the contributing authorities' districts when this Act comes into force.
- (6) The Local Government Commission may—
 - (a) review the effect of subsections (3) and (4) on the territorial authorities involved; and
 - (b) if the Commission considers it appropriate, make a decision that—

- (i) has an effect different from the effect that the subsections have; and
- (ii) applies for the period that the Commission considers appropriate.

Funding payments

38 Funding Board pays funding

- (1) This section applies to the funding payable to a specified amenity under the Funding Board's approved funding plan for a financial year.
- (2) The Funding Board must—
 - (a) pay the funding to the specified amenity; and
 - (b) do so as soon as is practicable after 12 July and no later than 15 August in the year; and
 - (c) tell the specified amenity, in writing or electronically, about any conditions in the approved funding plan on the provision of funding.

Subpart 4—Reporting

39 Specified amenity does annual report

- (1) This section applies to a specified amenity that has received or is receiving funding under this Act for a financial year.
- (2) The specified amenity must prepare a report that—
 - (a) assesses the amenity's application of the funding against the matters specified in the amenity's annual plan for the year under section 23(4); and
 - (b) contains financial statements for the year consisting of—
 - (i) a statement of financial position prepared in accordance with the New Zealand International Financial Reporting Standards; and
 - (ii) an overall operating statement; and
 - (iii) a statement of cash flows; and
 - (iv) any other statements necessary to fairly reflect the amenity's financial position, the resources available to it, and the financial results of its operations; and

- (v) any other information reasonably necessary to enable the Funding Board to make an informed assessment of the amenity's operations for the financial year as set out in its annual plan.
- (3) If a specified amenity has the same financial year as the Funding Board, the financial statements provided under subsection (2)(b) must be audited and the annual report must contain the auditor's report.
- (4) If a specified amenity has a different financial year from that of the Funding Board, the financial statements provided under subsection (2)(b) need not be audited but subsection (5) applies.
- (5) When subsection (4) applies, the specified amenity—
 - (a) must prepare audited financial statements for the financial year for the specified amenity; and
 - (b) must provide those audited financial statements and auditor's report to the Funding Board within three months after the end of the specified amenity's financial year.
- (6) The specified amenity must prepare the report and send it to the Funding Board within 3 months after the end of the financial year to which it relates.

40 Funding Board does annual report

- (1) The Funding Board must, at the end of every financial year, prepare a report that—
 - (a) assesses the Funding Board's performance; and
 - (b) assesses the performance of each of the specified amenities, taking into account their annual reports under section 39; and
 - (c) contains audited financial statements for the year consisting of—
 - (i) a statement of financial position of the Funding Board; and
 - (ii) an overall operating statement of the Funding Board; and
 - (iii) a statement of cash flows of the Funding Board; and

- (iv) any other statements necessary to fairly reflect the Board's financial position, the resources available to it, the financial results of its operations, and the financial results of the specified amenities' operations; and
 - (d) contains the auditor's report on the financial statements; and
 - (e) contains any other information necessary to enable an informed assessment of the operations of the Funding Board and the specified amenities for the financial year as set out in the Board's funding plan adopted for the financial year.
- (2) The Funding Board must adopt the report within 5 months after the end of the financial year to which it relates.
- (3) Within 20 working days of adopting the report, the Funding Board must—
- (a) make a copy available for public inspection; and
 - (b) give public notice that a copy is available for public inspection; and
 - (c) send a copy to each contributing authority and the Amenities Board.

41 Contributing authority's annual report

Every contributing authority must include information about its dealings with, and payments to, the Funding Board in its annual report under section 98 of the Local Government Act 2002.

Subpart 5—Miscellaneous provisions

42 Specified amenities may seek other funding

- (1) This section applies to a specified amenity that has received or is receiving funding under this Act.
- (2) The specified amenity may receive public funding from any other funding agencies or sources, including—
- (a) a central government agency; and
 - (b) a department specified in Schedule 1 of the State Sector Act 1988.

- (3) The specified amenity may not receive funding from a contributing authority for expenses that have been or are being funded under this Act.

43 Auckland Zoo

- (1) In this section, **Auckland Zoo** means the Auckland City Council undertaking known as the Auckland Zoo or the Auckland Zoological Park.
- (2) This section applies if the Auckland Zoo—
- (a) is established as a legal entity that—
 - (i) carries out the functions of the Auckland Zoo; and
 - (ii) is separate from the Auckland City Council; and
 - (b) is registered as a charitable entity under the Charities Act 2005.
- (3) On the date on which the Auckland Zoo is both established and registered, the zoo—
- (a) is treated as if it were listed in Schedule 1; and
 - (b) is subject to this Act.

Subpart 6—Transitional provisions

44 Funding Board: first appointments

- (1) As soon as is practicable after this Act comes into force,—
- (a) the Electoral College must meet and appoint members of the Funding Board under section 7(2); and
 - (b) the Amenities Board must meet and appoint members of the Funding Board under section 7(3).
- (2) The following provisions apply to the first members appointed to the Funding Board:
- (a) of the 6 members appointed under section 7(2), 4 hold office for a term of 2 years and 2 for a term of 3 years; and
 - (b) of the 4 members appointed under section 7(3), 2 hold office for a term of 2 years and 2 for a term of 3 years; and
 - (c) whether a member holds office for a term of 2 years or 3 years must be determined by lot, unless the members agree on a different method.

- (3) The term of office of a Funding Board member to whom subsection (2) applies ends on the 30 May—
 - (a) in the second year after the member is appointed if the member's term is 2 years; and
 - (b) in the third year after the member is appointed if the member's term is 3 years.
- (4) If the Funding Board does not have at least 6 members by the establishment day, the Board must not do any function or duty, or exercise any power, under this Act.
- (5) Clause 4(6) of Schedule 4 applies to—
 - (a) the first Funding Board appointed after the establishment day with 10 members; and
 - (b) every later Board.

45 Funding Board: first actions

- (1) The chairperson of the Electoral College must call the first meeting of the Funding Board as soon as is practicable after the establishment day.
- (2) The chairperson of the Electoral College must chair the first meeting until the Funding Board's members elect a chairperson.
- (3) At its first meeting, the Funding Board must—
 - (a) elect 1 of the 6 members appointed by the Electoral College under section 7(2) as chairperson; and
 - (b) elect any member as deputy chairperson.
- (4) The Funding Board must, as soon as is practicable, adopt appropriate procedural rules to govern its operations and the conduct of its meetings.
- (5) Section 25(4) does not apply to the first draft funding plan that the Funding Board prepares.

46 Amenities Board: first actions

- (1) The first appointments to the Amenities Board must be made before the establishment day.
- (2) The first meeting of the Amenities Board must be held as soon as is practicable after this Act comes into force to appoint members of the Funding Board under section 7(3).

- (3) The first meeting may be called by any of the Amenities Board's members.
- (4) At its first meeting, the Amenities Board must elect one of its members as chairperson.

47 Termination of contracts or agreements between specified amenities and contributing authorities

- (1) This section applies to a contract or agreement that—
 - (a) is made between a specified amenity and a contributing authority; and
 - (b) is made for the purpose of funding the specified amenity; and
 - (c) is in force on 1 July of the first financial year after this Act comes into force in which funding is to be received by the specified amenity under this Act.
 - (2) The contract or agreement is terminated on the 1 July described in subsection (1)(c).
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Schedule 1
Specified amenities

s 4

Auckland Observatory and Planetarium Trust Board
Auckland Philharmonia
Auckland Regional Rescue Helicopter Trust
Auckland Theatre Company Limited
Coast Guard Northern Region Incorporated
New Zealand National Maritime Museum Trust Board
New Zealand Opera Limited
Surf Life Saving Northern Region Incorporated
The Auckland Festival Trust
Watersafe Auckland Incorporated

Schedule 2
Funding for first financial year

s 31

Specified amenity	Amount of funding
Auckland Observatory and Planetarium Trust Board	\$500,000
Auckland Philharmonia	\$1,500,000
Auckland Regional Rescue Helicopter Trust	\$1,500,000
Auckland Theatre Company Limited	\$800,000
Auckland Zoo	\$4,000,000
Coastguard Northern Region Incorporated	\$500,000
New Zealand National Maritime Museum Trust Board	\$1,000,000
New Zealand Opera Limited	\$500,000
Surf Life Saving Northern Region Incorporated	\$700,000
The Auckland Festival Trust	\$1,200,000
Watersafe Auckland Incorporated	\$500,000

Schedule 3
Contributing authorities and differential factors

s 4

Territorial authority	Differential factor
Auckland City Council	1.0
Franklin District Council	0.6
Manukau City Council	1.0
North Shore City Council	1.0
Papakura District Council	1.0
Rodney District Council	0.6
Waitakere City Council	1.0

Schedule 4

s 10

Administrative provisions for Funding Board**1 Nature**

- (1) The Funding Board has perpetual succession.
- (2) The Funding Board is not a council-controlled organisation for the purposes of the Local Government Act 2002.

2 Independence

- (1) In doing the functions and duties, and exercising the powers, of the Funding Board, the members must act independently of—
 - (a) the body that appointed them; and
 - (b) the contributing authorities; and
 - (c) the specified amenities.
- (2) In doing the functions and duties, and exercising the powers, of the Funding Board, the member referred to in section 7(4) must represent the interests of Māori in the Auckland region.

3 No personal liability

Funding Board members are not personally liable for acts done or defaults made—

- (a) in good faith; and
- (b) in the course of the Funding Board's operations; and
- (c) by—
 - (i) the Funding Board, or
 - (ii) a Funding Board member.

4 Terms of office

- (1) Every Funding Board member is appointed for a term of 3 years starting on the day after the date on which the previous term ends.
- (2) Subclause (1) does not apply to members appointed under section 44 or clause 6(3).
- (3) Every member is eligible for reappointment.
- (4) Subclause (5) applies to a member to whom the following apply:

- (a) his or her term of office ends; and
 - (b) he or she has not resigned his or her office; and
 - (c) he or she is not in a situation described in clause 6(1).
- (5) The member continues to hold office by virtue of his or her appointment until—
- (a) he or she is reappointed; or
 - (b) his or her successor is appointed.
- (6) The Funding Board's functions, duties, and powers are not affected by a vacancy in its membership.

5 Resignations

- (1) A Funding Board member may resign his or her office by giving a notice in writing or electronically to the advisory officer.
- (2) A member who resigns his or her office on terms that permit him or her to continue in office may do so by virtue of his or her appointment until his or her successor is appointed.

6 Extraordinary vacancies

- (1) This clause applies if any Funding Board member is in one of the following situations:
- (a) the member dies; or
 - (b) the member resigns his or her office on terms that do not permit his or her continuing to hold office; or
 - (c) the member is absent without leave from 2 consecutive Funding Board meetings; or
 - (d) the member becomes an elected or appointed member of a contributing authority; or
 - (e) the member becomes the chief executive of a contributing authority; or
 - (f) the member becomes an employee of a contributing authority; or
 - (g) the member becomes a board member of a specified amenity; or
 - (h) the member becomes an employee of a specified amenity; or
 - (i) the member is declared bankrupt; or
 - (j) the member becomes the subject of an order under section 383 of the Companies Act 1993; or

- (k) the member becomes a special patient as defined in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
 - (l) the member becomes the subject of an order under the Protection of Personal and Property Rights Act 1988; or
 - (m) the member is convicted of an offence punishable by a term of imprisonment of 2 years or more.
- (2) If a member is in one of these situations,—
- (a) his or her term of office ends; and
 - (b) the vacancy is an extraordinary vacancy.
- (3) An extraordinary vacancy must be filled in the same way as the appointment to the vacant office was originally made. The member appointed holds office only for the rest of the vacating member's term.
- (4) If an extraordinary vacancy occurs within 6 months before the date fixed for the next appointment to the office that has been vacated, the appointing body may decide not to fill the vacancy.

7 Chairperson and deputy chairperson

- (1) The Funding Board must annually—
- (a) elect 1 of the 6 members appointed by the Electoral College under section 7(2) as chairperson; and
 - (b) elect any member as deputy chairperson.
- (2) The chairperson and deputy chairperson may stand for re-election.
- (3) The chairperson of the Funding Board—
- (a) must preside at all meetings of the Funding Board at which he or she is present; and
 - (b) has the functions, duties, and powers that the Board delegates to him or her from time to time.
- (4) The deputy chairperson must act in place of the chairperson in any case where the chairperson—
- (a) is absent; or
 - (b) is unable to act for any other reason.

8 Meetings

- (1) If the chairperson and the deputy chairperson are absent from a meeting, the members present must appoint one of their number to be the chairperson of the meeting.
- (2) A quorum for a meeting of the Funding Board is a majority of its members.
- (3) The Funding Board must decide every question before it in open voting by a majority of the votes recorded on it.
- (4) The person presiding at a meeting of the Funding Board has a deliberative vote and, if the votes are equal, also has a casting vote.
- (5) Part 7 of the Local Government Official Information and Meetings Act 1987 applies to the Funding Board as if it were a local authority subject to that Part.

9 Procedural rules

The Funding Board may regulate its own proceedings on matters not specifically dealt with in this Act.

10 Remuneration

- (1) The Electoral College must decide how much to pay each member of the Funding Board after considering a recommendation from the Funding Board.
- (2) The Electoral College must decide to pay an amount that is appropriate having regard to—
 - (a) the public purpose of the Board's functions; and
 - (b) the extent of public funding of the Board's operations.
- (3) The Electoral College must not determine a rate of pay for a Funding Board member in a financial year greater than that specified for the payment of a member in the funding plan adopted for the year.
- (4) The Funding Board must recommend to the Electoral College how much a member of the Board should be paid in a financial year having regard to the matters in subsections (2) and (3).
- (5) The Funding Board must pay its members the amount determined by the Electoral College.

11 Dealings with other bodies

The Funding Board may liaise, consult, and, if it considers necessary, enter into agreements with any body that—

- (a) provides funding to a specified amenity; or
- (b) is a potential source of funding for a specified amenity.

12 Advisory officer

- (1) The Funding Board may appoint an advisory officer to assist it in doing its functions.
- (2) However, if the Electoral College requires it, the advisory officer must be a person seconded for service from one of the contributing authorities.
- (3) The advisory officer is responsible to the Funding Board for—
 - (a) implementing the Board's decisions; and
 - (b) ensuring that the Board's operations are conducted in a transparent and accountable manner; and
 - (c) providing services and advice to Board members; and
 - (d) ensuring the effective, efficient, and economic management of the Board's operations and planning; and
 - (e) doing any other functions that the Board delegates to him or her.

13 Auditor

- (1) The Auditor-General is the Funding Board's auditor.
 - (2) For the purpose of auditing the Funding Board, the Auditor-General—
 - (a) has and may do all the Auditor-General's functions and duties under the Public Audit Act 2001; and
 - (b) has and may exercise all the Auditor-General's powers under the Public Audit Act 2001.
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Legislative history

4 September 2007	Introduction (Bill 151-1)
19 September 2007	First reading and referral to Local Government and Environment Committee
5 August 2008	Reported from Local Government and Environment Committee (Bill 151-2)
27 August 2008	Second reading, third reading
29 August 2008	Royal assent
