

Departmental Disclosure Statement

New Zealand Public Health and Disability (Southern DHB) Elections Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Health.

John Hazeldine, Acting Director – DHB Performance, Ministry of Health certifies that, to the best of his knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

19 November 2015

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Part One: General Policy Statement

The New Zealand Public Health and Disability (Southern DHB) Elections Bill will exempt the Southern District Health Board (DHB) board from the 2016 triennial general elections. This legislation will have the effect of extending the time that the DHB is governed by a Commissioner until a newly elected board takes office following the 2019 triennial general elections.

Southern DHB has long standing financial performance issues which will require time to address. Improving the DHB's financial performance is likely to require a range of solutions, some of which could include more medium term actions that need to be implemented after the Commissioner's term currently expires on 2 December 2016. This Bill would allow the Commissioner more time to undertake further work in improving the DHB's financial performance. A new board taking office in 2019 should then have a more secure financial position from which to begin its term.

This legislation impacts on only one election for the Southern DHB and is not expected to result in any additional costs for the DHB or other agencies. It does not provide for any additional powers for the Minister of Health or the Government, but extends the application of an existing power.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
Costs of up to \$300,000 have been identified for Southern DHB for holding the 2013 election. If there is no election in 2016, then the DHB will not have to pay this cost. The costs of remunerating the Commissioner and Deputy Commissioners are not expected to exceed those costs of the Board and Crown Monitor that were in place previously.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The Ministry's legal team used the Ministry of Foreign Affairs website resources and Appendix 3 of the Legislation Advisory Committee Guidelines on Process and Content of Legislation 2001 to identify any relevant international obligations. No inconsistencies were identified during this review, or during policy development and departmental consultation.
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Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

<p>The Ministry's legal team considered whether the Bill had any Treaty of Waitangi implications, in particular regarding the exemption of the Southern DHB from the 2016 elections. Section 4 of the New Zealand Public Health and Disability Act 2000 (NZPHD Act) states that Part 3 of the NZPHD Act recognises the principles of the Treaty by providing for mechanisms to enable Maori to contribute to decision-making on, and to participate in the delivery of, health and disability services. Exempting the Southern DHB from the 2016 election would reduce some opportunities for Maori to contribute to DHB decision making and could therefore be said to have implications for the Treaty.</p>

<p>Any such reduction must be balanced with implications if the Bill is not passed. The purpose of the Bill is to extend the term of the Commissioner to allow more time to drive improved financial performance of the Southern DHB. If this is not achieved then there will likely be flow-on consequences relating to the provision of health services for both Māori and non- Māori residents in the Southern DHB area.</p>

<p>Other key mechanisms for Māori to contribute to decision making are not affected by the Bill, such as the provision of advice to the Commissioner by the local Iwi Governance Committee and consultation on service change. In addition, the Commissioner has affirmed the status of the DHB's Treaty relationship agreement with local Iwi groups. Through these continuing mechanisms and the relationship agreement, the principles of the Treaty will continue to be recognised and applied. The policy to be given effect by the Bill is therefore consistent with the principles of the Treaty of Waitangi.</p>
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Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

<p>Advice provided to the Attorney-General, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of the Bill. Such advice, or reports, are accessible on the Ministry's website at: http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/</p>
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Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	NO
The current Commissioner of Southern DHB has been informed of the policy to be given effect by this Bill.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
The Bill exempts the Southern District Health Board (DHB) board from the 2016 triennial general election. The reasons for this are set out in the General Policy Statement.	