



Construction Industry Long Service Leave Board  
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 OFFICE

21 AUG 2014

The Hon. John Rau MP  
 Minister for Industrial Relations  
 11<sup>th</sup> Floor  
 45 Pirie Street  
 Adelaide SA 5000

1R 0012/14

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Dear Minister

I refer to correspondence received from the Premier dated 8<sup>th</sup> July 2014 regarding the government's review of boards and committees.

The Construction Industry Long Service Leave Board met recently to discuss the review. The Board's response is attached.

Yours sincerely

Margaret Sexton  
 Presiding Officer  
 Construction Industry Long Service Leave Board  
 20<sup>th</sup> August 2014

ATTORNEY-GENERAL'S DEPT.



AGD547959

## **TO THE MINISTER FOR INDUSTRIAL RELATIONS REVIEW OF GOVERNMENT BOARDS AND COMMITTEES**

The Premier has written to the Board in relation to a review of all government boards and committees. The matter was tabled and discussed at a recent Board meeting. The Board's response follows.

The Construction Industry Long Service Leave Board is a statutory body established under the Construction Industry Long Service Leave Act. The Board's role is to administer a portable long service leave scheme for construction industry workers in South Australia.

Section 20 (4) of the Act is specific in that:

"There will be paid from the Fund.....

(c) the costs incurred by the Board in performing its functions under this Act;"

The scheme is therefore totally self funded through employer levies calculated on a percentage of a worker's remuneration (currently 2.25%) and income generated from the Board's investment strategy. It is not a Government budget sector agency. Apart from initial seeding capital of \$100,000 provided by the Government through a non interest bearing loan, no taxpayer funds or government guarantees have been provided to the scheme during any period of its operations. The Government would potentially incur costs if the decision was taken to reform the current governance structure. i.e. Board fees, legal costs, staffing and recruitment costs etc.

### **The Scheme**

Since the inception of the scheme in 1977, over 111,000 workers have registered. \$136.63 million has been paid out in processing approximately 30,000 claims. These payments include 9,600 workers who had recorded service with more than one employer. In the absence of the scheme, they may not have accrued sufficient service under the State Act to qualify for long service leave.

At the 30<sup>th</sup> June 2014, the number of industry clients totalled 28,000 (employers, workers, self employed contractors, working directors). Of the 25,000 active workers registered, it is estimated 24% have qualified for long service leave.

### **Governance Models**

The inaugural Long Service Leave (Casual Employment) Board comprised two employer and two worker representatives and an independent Chairman. It operated within a public service environment through the Long Service Leave Branch of the Department of Labour. Collection of levies was undertaken by the Commissioner of Stamps, State Taxation Office.

All funds collected were held in a Trust Fund maintained within Treasury. This governance model denied the Board direct control over determining operational and investment strategy and resulted in dual lines of reporting.

In 1989, amendments to the Act extended scheme coverage to the electrical contracting and metal trades industries. The Board was reconstituted and increased by an additional two members.

A significant point in the history of the Board occurred in 1994 with moves to adopt a more commercial, cost effective and independent administration. Representations were made to the then Commission of Audit targeting reduced levels of public sector administration. Privatisation of the Board and scheme was considered but not supported by industry. All staff became Board employees and the trading name Construction Benefit Services adopted. Corresponding legislative changes saw the Board able to use external auditors and work with broader investment powers.

In 2001, the then Liberal Government commissioned a review of the construction industry long service leave scheme. The review was undertaken by Mr T. Sheridan, a former Auditor-General. The key findings were significant in that the report:

- Acknowledged the improved staffing flexibility achieved through the termination of the administrative working arrangement with the Department of Industrial Relations;
- Acknowledged the scheme's administration processes and systems were efficient and compared favourably with interstate schemes; and
- There was a culture of continuous improvement.

On the subject of scheme administration the following points were made:

“The present legislative (regulatory) process is not conducive to the effective management of the Fund. It has an in-built delay factor which runs counter to the need for prompt action.

There is no reason for the Government to maintain its present tenuous connection to and consequent public exposure to the scheme.”

Further amendments to the Act, which came into effect on the 1<sup>st</sup> January 2013, extended the Board's powers to determine the levy rate within prescribed parameters. This amendment addressed issues raised by Mr Sheridan in his earlier report.

While historically the South Australian construction industry has rejected privatisation, the schemes in Victoria and Tasmania have gone down that path. More recently, an independent review of the NSW Long Service Leave Corporation has recommended either a fully privatised model or a state owned corporation with a responsible board. No decision is

anticipated until after the election. Western Australia is also subject to a similar government review of boards and committees.

The current governance model provides the Board with flexibility and the independence necessary to act in the industry's best interests and in a timely manner. The new power to determine the levy rate is a fundamental part of Board's fiduciary responsibilities to the industry. The Board remains subject to the direction of the Minister.

It is important to recognise all Board members, excluding the independent Presiding Officer, are appointed on the recommendation of the industry. There are no independent members/directors. The Board contracts external consultants (investment, taxation, risk management etc.) on an as required basis. This expertise compliments industry knowledge brought to the board table by appointed members and underpins the success of the scheme.

### **National Perspective**

The portable scheme extends across state and territory borders through a national reciprocal agreement. All schemes are signatories to this agreement.

The Board was successful in 2005 in tendering for work associated with setting up a portable long service leave scheme in the Northern Territory. The Board continues to provide IT support to NT Build on a contractual basis.

All states have previously agreed to a resolution to improve the efficiencies of all schemes through cooperation at a national level. The SA Board is at the forefront in its support for this initiative. The national focus is being pursued on several fronts. The development of a national back office has been identified as a means of significantly reducing operating costs and ensuring employers and workers are not disadvantaged through differences in business rules and loss of service respectively. A Memorandum of Understanding exists between the state schemes for the initial feasibility study.

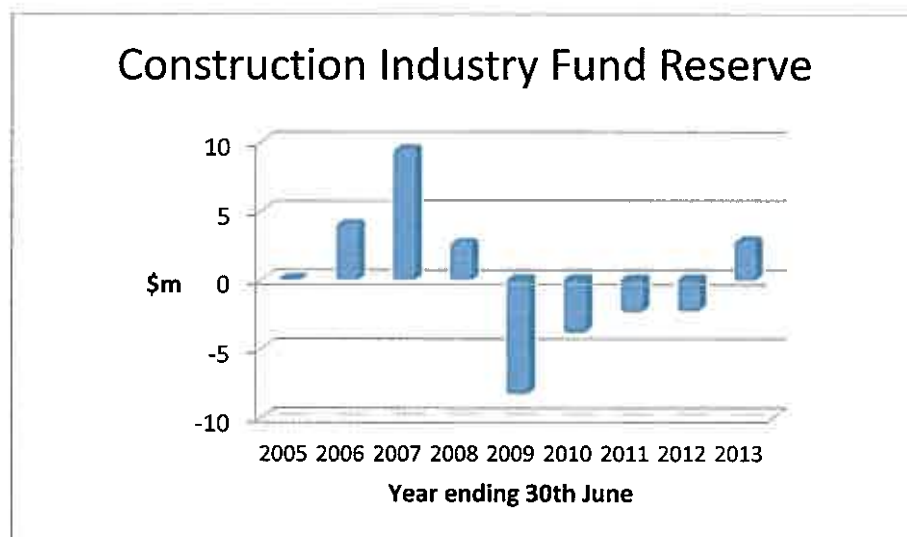
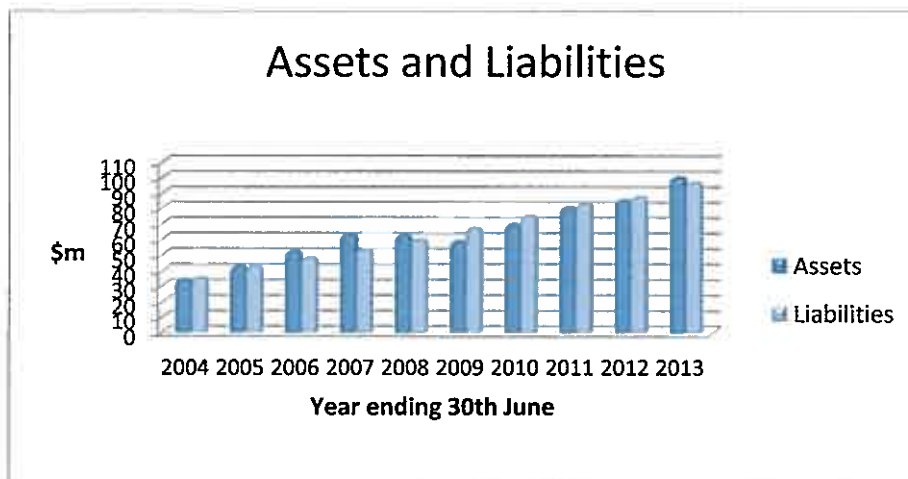
### **Sufficiency of the Scheme**

Investment income is paramount to the financial viability of the scheme. The Board's investment strategy is driven by the need to ensure the Construction Industry Fund is able to meet the future long service leave entitlements while maintaining the levy rate at the lowest level. To this end the Board:

- Has appointed Jana Investment Advisers as asset consultant and provider of implemented consulting services;
- Reviews investment strategy against objectives each year; and
- Contracts an actuary to undertake an annual review of the Fund's sufficiency.

The scheme is now fully funded and operates with a levy rate of 2.25%.

The tables below highlight the success of the Board in improving the Fund's solvency position (through the Global Financial Crisis and beyond). This has been achieved through prudential fund management.



#### Industry Engagement

The industry is involved in the administration of the scheme through representation on the Board. This is complimented by the active presence and profile of field staff on site. It is their role to promote the scheme and to ensure compliance. Requests for legislative change emanate from the "coal face." The Board has previously given a commitment to Government that all proposed amendments to the Construction Industry Long Service Leave Act will be referred to all relevant bodies within the industry for consultation prior to reference to the Minister. This engagement of the industry is viewed as a business imperative.

## **Corporate Strategy**

The Board's Corporate Plan is vital in terms of defining strategic direction. The Plan:

- Represents the Board's core strategic direction for a designated period;
- Guides decision making;
- Identifies key operational initiatives for the current year;
- Is the primary business planning and performance tool; and
- Steers budget consideration and resource allocation.

Other relevant corporate documentation includes risk management strategy and framework, staff values and code of conduct, vision and business objectives, policy statements (Privacy, Records Management, Service Commitment etc). Preliminary consideration is now being given to developing a Board Member Code of Conduct and Charter.

## **SUMMARY**

In 1977 the concept of portable long service leave was new to the construction industry and broader community. Under the Board's guidance, the scheme in South Australia has since fulfilled its statutory obligations as the provider of portable long service leave to workers in the industry.

The Board is totally self-funded and receives no funds from Government. In many respects it is a commercial organisation similar to a superannuation fund (collecting payments (levies), investing funds and paying defined benefits). It is also directed by a Board comprising people from the private sector.


The scheme makes a direct contribution to the employment of apprentices within the industry through the application of a zero levy rate on employers. The Act also makes provision for an investment scheme whereby self employed contractors and working directors can preserve prior service accruals and continue to contribute towards their long service leave.

Apart from the benefits of portability, the scheme's existence protects workers' entitlements. Accrued service in the portable scheme is preserved in the event of financial failure of the employer. It also assists in keeping skilled workers in the industry.

Key performance indicators (scheme administration costs per client, management expense ratio) show the Board compares well with the larger interstate schemes.

Respective Boards and management have worked hard to oversee the ongoing administration and development of the scheme. The current governance model is supported by the industry as the required framework for the scheme going forward. It ensures the scheme is seen as "industry run".

The importance of the Board's future role to the industry cannot be overstated. The scheme contributes to the prosperity of the construction industry and is fundamental to the lifestyle and wellbeing of the industry's workforce.



**M Sexton**  
**Presiding Officer**  
**Construction Industry Long Service Leave Board**  
20<sup>th</sup> August 2014