DIGEST OF BILL

Purpose

To widen the investment powers of the Commonwealth Superannuation Fund Investment Trust (SFIT), to define SFIT's role, objectives and duties, to alter the rules relating to the granting, varying or revocation of benefit classification certificates, and to allow SFIT to employ its own staff.

Background

The administration of the superannuation scheme for Commonwealth employees was extensively modified by the Superannuation Act 1976 (the Principal Act). The Superannuation Board, which previously administered the scheme, was replaced by SFIT.

The Superannuation Fund (the Fund) is administered by SFIT and is composed of employee contributions and investment income. As superannuation benefits become due, the employees' contributions, plus interest, are transferred to Consolidated Revenue. The employees' superannuation entitlements are paid from Consolidated Revenue as they become due, the Government meeting the difference between the employees' contributions and their entitlement. Monies not required to pay superannuation benefits are invested by SFIT. The Principal Act (section 42) and its regulations specify how such monies may be invested. The Fund has assets in excess of $2 billion, and invests approximately $7 million per week. In the seven years of operation to 30 June 1983 the average rate of return on investments was 11.78%.[1]
SFIT comprises a full-time chairman and two part-time members. The objectives of SFIT are not currently stated in the Principal Act. However, SFIT has stated, in its 1981/82 Annual Report, that its objective was '... to achieve the highest practicable return to contributors over the long term consistent with investment security'.[2] Although the extent of the investment power is open to some doubt, it appears that SFIT cannot trade in shares or fixed interest securities.[3] A further constraint on SFIT's investment powers has been the 30/20 rule which requires 30% of the Fund's assets to be public securities. Of these public securities, Commonwealth securities must comprise at least 20% of the total assets.

Reviews into SFIT were conducted as a result of remarks made by the Auditor-General in his report on the Financial Statements of SFIT for 1982. In this report, delivered on 11 November 1983, the Auditor-General expressed concern about the management of SFIT and certain investments it had undertaken.[4] The Auditor-General suggested that more detailed inquiries into SFIT were warranted. The Minister announced, on 11 January 1984, that an inquiry into the management and operations of SFIT would be conducted by Mr Monaghan, a Commissioner of the Public Service Board, and the Auditor-General designate (now Auditor-General). The Monaghan Report was delivered on 30 March 1984 and contained a number of recommendations for the reorganisation of SFIT. A Joint Working Party, comprising representatives of the ACTU, Department of Finance, the Public Service Board, SFIT and private accountants, was established to consider the Monaghan Report on 5 April 1984. The Joint Working Party's Report was delivered in July 1984.

In April 1985, the Superannuation Legislation Amendment Bill 1985 was introduced in the Senate to implement a number of the changes recommended in the Monaghan Report and by the Joint Working Party. Amongst the amendments proposed by that Bill, it was intended to restructure the membership of SFIT and to place representatives of the ACTU on SFIT. That Bill was referred to the Senate Standing Committee on Finance and Government Operations, which released its report in May 1985. The Standing Committee recommended four amendments to the proposed Bill, three, including that relating to the membership of SFIT, of which were accepted.[5] Following consideration of the Standing Committee's report the Senate passed an amendment that was unacceptable to the Government and the Bill was laid aside in the Senate.
Outline

This Bill seeks to implement the majority of the amendments contained in the Superannuation Legislation Amendment Bill 1985, those accepted by the Government following consideration of the Senate Standing Committee's report and other amendments. The Bill will not seek to alter the composition of SFIT.

Main Provisions

Clause 6 will amend section 16 of the Principal Act which deals with the issue, variation or revocation of benefit classification certificates. At present, such certificates are issued, varied or revoked if it is 'not likely' that the appropriate condition will alter. The proposed amendments will alter this test to whether 'there is a substantial risk' that the appropriate conditions will alter. This will remove the effect of a recent Administrative Appeals Tribunal (AAT) decision that 'likely' means more probable than not, and return the interpretation of this phrase to how it stood before the AAT decision. The amendment will be deemed to have come into effect from 1 July 1976 (sub-clause 2(1)). However, where the AAT has set aside a decision to issue a benefit classification certificate before the date that this Bill comes into force, that decision will not be affected by the proposed amendments.

The Commissioner for Superannuation will be given all the powers of a Secretary of a Department in the Australian Public Service in relation to staffing matters (clause 7 which will substitute a new section 26 into the Principal Act).

A statement of SFIT's objectives and duties is introduced by clause 8 which will insert a new section 29A into the Principal Act.

Clauses 10 to 19 deal with the terms and conditions of employment of the members of SFIT.

Clause 20 will amend section 41 of the Principal Act to increase SFIT's investment and borrowing powers. The amendments will allow SFIT to underwrite or sub-underwrite investments and to borrow up to 10% of the assets of the fund.
Clause 21 will amend section 42 of the Principal Act to remove the 30/20 rule and state that SFIT may invest 'in any manner'.

A new Division 3, which will give SFIT power to employ its own staff, will be inserted into the Principal Act by clause 22. The proposed Division will also specify the relationship between SFIT's staff and the Australian Public Service.

For further information, if required, contact the Economics and Commerce Group.

5 May 1986

References

2. Ibid., p.21.
3. Ibid., p.44.
4. Ibid., p.247.