

**FIRE AND EMERGENCY SERVICES LEGISLATION (EMERGENCY SERVICES LEVY)
AMENDMENT BILL 2002**

Second Reading

Resumed from 27 November.

HON NICK GRIFFITHS (East Metropolitan - Minister for Racing and Gaming) [12.30 pm]: I thank those members who have spoken on this Bill. A number of interesting and very constructive observations were made. The arrangements proposed in the Bill have been developed over many years to determine a fairer and more equitable system than what most previous speakers agreed was a set of obsolete arrangements. The consensus appears to be that the current system is outdated and unfair. Hon Derrick Tomlinson accepted that it is obsolete. Hon Derrick Tomlinson dwelt, to a degree, on why the previous Government did not go forward with funding arrangements along the lines proposed in this Bill. The honourable member made reference to the Cabinet of the former Government considering the Bill, but not agreeing to it.

Hon Derrick Tomlinson: I assumed that. I do not know what went on in Cabinet.

Hon NICK GRIFFITHS: He made reference, in any event, to a Bill being presented to his party room and not getting past the party room. He made a number of references to a concern about what he repeatedly called a property tax. It is interesting in this context, to note what was said by the minister in the previous Government, Hon Kevin Prince. I refer to a media release by the former minister on 12 May 1999, which stated that existing arrangements were to remain in place. Further down, the statement read -

Mr Prince told State Parliament today that a State Government plan to change existing funding arrangements - through the Fire Brigades (Fire Services Levy) Bill 1999 and the Fire Brigades Amendment Bill 1999 - from July 1 this year was not achievable by the proposed introduction date.

That is a fair point. Further on, the document read -

“Due to the widespread implications of the Bill and the extensive consultation and complexities of the drafting process, which have taken considerably longer to finalise than ever anticipated, it is simply not possible to introduce and pass this legislation through Parliament before the anticipated July 1 introduction date,” Mr Prince said.

Hon Derrick Tomlinson interjected.

Hon NICK GRIFFITHS: I will not read out the whole press release. I am happy to table it or to pass it to the honourable member.

Hon Derrick Tomlinson: You are doing a very good job of paraphrasing.

Hon NICK GRIFFITHS: I am actually quoting these words, because they are important. The media release goes on -

“The framework for inevitable change to fire levy contributions, and potentially, emergency services funding in this State, is now well advanced and we will continue to develop further legislation.

The statement concluded with the words -

Mr Prince said the State Government would continue to closely monitor funding restructures within fire and emergency services in other States as part of its commitment to further develop proposed funding changes to emergency services in WA.

My understanding, based on my reading of what Mr Prince said, and my observations of what occurred several years ago and since, is that this Government is building on work that was carried out substantially by the previous Government. I accept that this matter does not have universal approval, but it is widely accepted as being for the betterment of the State. We cannot have everybody signing up on everything all the time, but this measure had considerable support then and it has considerable support now. I am advised that FESA was asked by the previous Government to investigate the development of a broader-based emergency services levy than that contemplated in July 1999, to include all the emergency services, not just fire and rescue. That work was carried out in consultation with local governments, and that process has led to this Bill. This Government has built on the work of the previous Government, and that is how our society progresses. I accept that there are differences within and between parties, but this is very much a building block exercise.

I do not accept the allegation of broken promises. The legislation before the House is a replacement for and redefinition of unfair arrangements currently in place, and it removes the responsibility from the few to the many. The honourable member made reference to the Financial Administration and Audit Act and Treasury requirements, and I answered those by way of interjection. The proposition was made that the services should be

funded from consolidated revenue. That sounds like a great idea and in a perfect world it may well be a great idea, but the world is not perfect. Funds for these activities come in part from other sources, which are now being dealt with in a far more equitable way. It is important to note that the proposed emergency services levy arrangements will quarantine money raised through the levy for emergency services. The Government will not be able to spend the funds raised through the ESL on anything but emergency services, and the associated programs. The community will be in a position to see that it is contributing to essential services.

Reference was made to a proposition that this may be an impost on industry and commerce. Some parts of industry and commerce are now paying their way, and subsidising others in operational terms. That is not a proposition that everyone goes along with, but it is fair to put it. Hon Derrick Tomlinson and Hon Frank Hough made reference to the maximum levy of \$100 000. This sounds like a large sum of money, but the advice I have received is that 22 commercial properties in Western Australia fall within the highest category. They are large shopping centres or hotel and resort complexes, with a gross rental value of \$7 million or more. There is proportionality between the gross rental value and the levy. That is the position as far as the Government is concerned. It should be remembered that the emergency services levy will replace the levy currently charged by insurance companies on commercial and industrial concerns. That will also include insurance taken out by tenants. There will be an offset of savings on insurance, stamp duty and the goods and services tax. There will also be a saving on council rates as local governments will no longer have to make their annual 12.5 per cent contribution to the cost of career fire and rescue services. It is not all one way; there are savings in other areas. Hon Frank Hough expressed a concern that the change in the funding system would see FESA take control of all emergencies throughout the State. The House debated another Bill dealing with FESA a few weeks ago that dealt with the operations of that authority. This Bill deals with a change to the funding system and has no effect on the current emergency management powers and responsibilities of local governments, such as fires in rural areas. Fire in rural areas was of particular concern to Hon Frank Hough. He also raised concerns about the 12.5 per cent contribution that councils pay. That contribution will no longer be required. It is estimated that councils across the Perth metropolitan area will save about \$10 million a year. That figure should be taken into account when considering the effect of the emergency services levy on local governments. Local governments currently pay the fire and rescue services \$20 million a year. That is money that would otherwise be available to local governments. Local governments in regional areas will no longer have to raise funds through rates to pay for volunteer bush fire brigades or local State Emergency Service units. Like everyone else who owns property, they will have to pay the emergency services levy, but the amount to be paid will be minimal compared with the savings made. This will be beneficial to the finances of local governments. The advice provided to me is that there are 39 councils in regional areas that will pay very little as they fall into ESL category 5. There is a proposed fixed charge of \$30 for each property in that category.

Hon Bruce Donaldson: What about Christmas Island and the Cocos Islands?

Hon NICK GRIFFITHS: Hon Derrick Tomlinson is an authority on Christmas Island.

Hon Derrick Tomlinson: I am "the" authority.

Hon NICK GRIFFITHS: I know. I cannot tell the member the arrangements with Christmas Island. I am happy to find out for him. I am very curious about Christmas Island and I will have a chat to Hon Derrick Tomlinson in due course. I will probably have that chat a bit closer to Christmas.

Hon Derrick Tomlinson: The minister could have Christmas with me in the administrator's house on Christmas Island.

Hon NICK GRIFFITHS: I think Christmas on Christmas Island in the administrator's house would be a delightful occasion.

Hon Robin Chapple: The minister could have Christmas in my colleague's house on the island.

Hon NICK GRIFFITHS: Perhaps it could be a progressive Christmas dinner.

Hon Derrick Tomlinson: Would it include red crabs?

Hon NICK GRIFFITHS: Not red herrings though!

A comparison was made of the total amounts of the emergency services levy to be collected within certain local government boundaries. That is not considered to be a fair measure of equity. The amounts collected in local government areas reflect the number and value of properties in those areas. It is considered that payments by individual property owners will be equitable when compared with the services available, regardless of the location of a property. The arrangements are based on emergency services levy category areas, not local government boundaries. Hon Bruce Donaldson suggested that most local governments would collect more emergency services levies than would be spent in their areas by FESA. The proposition is that there will be some cross-subsidisation from the major centres to regional areas, which raise very little funding but still require

essential emergency services. This happens in many areas of government, notwithstanding that some people say it does not happen. It is commonplace and it is good administration. In addition, the Government has committed itself to continue its own contribution to emergency services to ensure that volunteers in regional areas are adequately provided for. Not all communities have the capacity to make that provision. That is the role of the community overall, and the Government plays that role on behalf of the community.

The collocation of emergency service facilities in regional areas was raised by Hon Bruce Donaldson. It is a specific policy of FESA. It is producing results and will continue to produce results. With respect to Koorda, I am advised that all properties are likely to fall into ESL category 5 and owners will pay \$30 each, which is probably less than they are currently contributing through council rates to their local bush fire brigades. It follows that there will be a degree of cross-subsidisation.

The issue of the collection of the emergency services levy by local governments was probably the central piece of the debate, as related by members who spoke. In particular, reference was made to a paper sent to members of Parliament by the North Metropolitan Zone Committee of the Western Australian Local Government Association.

I have just received a message from Christmas Island! I will make reference to it. I am advised that the emergency services levy will, at this stage, not apply to Christmas Island and the Cocos Islands.

Hon Derrick Tomlinson: Send it back and visit it yourself.

Hon NICK GRIFFITHS: A ministerial visit on behalf of someone else is probably needed because the Commonwealth has to decide to apply the levy. If that were to occur, the Commonwealth would collect the funds. That is a bit of a worry. I know what happens when the Commonwealth collects funds; it is one-way traffic. However, that is the Christmas Island solution at the moment - such that it is.

I return to the local scene and local governments. The Government understands that some local governments do not agree with the introduction of the levy and that some object to being a collection agent for FESA. That is not a universal position; many local governments agree with what is proposed because it is a vast improvement on current arrangements. There has been considerable cooperation and assistance in the development of the proposed administrative arrangements for the introduction of the emergency services levy. It was decided that the levy would be collected via a rates notice system because it would be simple and practical. The process for the collection of the levy is closely aligned to the process used by local governments for the collection of rates. Given that a system already exists, the establishment of a completely separate system through another government agency would be a waste of resources. I understand that South Australia went down that path, which proved to be very costly. The Government acknowledges that in collecting the emergency services levy, local governments will incur costs. Therefore, it has committed \$2.25 million to pay local governments for that service. In addition, the Fire and Emergency Services Authority is paying for the software and other computer changes that are needed before the service begins. Hon Bruce Donaldson asked whether there would be a separate notice for the ESL. A separate notice is not proposed because the increase in paperwork, printing and mailing would create an impost on local governments. It makes better sense to have a separate line item on the existing notice that clearly indicates the emergency services levy payable by the property owner. The use of a single notice will enable ratepayers to pay their ESL in instalments, a method that can also be used to pay their rates. That will allow for the setting of a reasonable minimum charge for the ESL.

The Western Australian Local Government Association North Metropolitan Zone Committee released a paper, which Hon George Cash tabled yesterday. Hon Robin Chapple referred to some of the issues in the paper and correctly pointed out that circumstances have changed considerably and that matters have moved on since the paper was initially circulated. Some of the concerns raised in the paper - not all - have since been substantially accommodated. I am advised that the Fire and Emergency Services Authority welcomed the key proposals for the development of an alternative administrative arrangement to suit large local governments. FESA has developed proposals and amendments that appear in the supplementary notice paper that will be dealt with during the committee stage. The amendments will be moved to accommodate the issues that have relevance to and can be dealt with by the legislation. Many of the issues raised in the paper have been resolved, while others are being addressed. Some issues relate to administration, while others relate to what is proposed to be dealt with by way of legislation. A number of meetings have been held and there has been considerable consultation, particularly with Mr Rodney Constantine, the Deputy Chief Executive Officer of the City of Stirling. I am advised that the Fire and Emergency Services Authority will continue to consult widely on the details of the regulations and administrative arrangements, a measure that was encouraged and urged by members opposite. The Government wants the system to work in a proper and equitable way. That will occur with the goodwill and ongoing cooperation of local governments. Councils that choose to adopt the alternative ESL administrative agreement - subject to the Committee's agreeing - will bill their ratepayers with the ESL on rate notices in the

standard way. However, they will be able to permit payments to FESA under individual mutually agreed arrangements.

Hon Derrick Tomlinson asked why the word “or” is used in proposed section 35B(2)(a) while the word “and” is used in proposed section 36G(3)(a)(i). I will do my best to explain. Proposed section 35B(2)(a) requires FESA to separately identify within its estimates the amount of expenditure related to prescribed services, for example, the Volunteer Marine Rescue Service Western Australia, which will continue to be funded from the consolidated fund. Proposed section 35B(2)(b) requires FESA to separately identify within its estimates the amount of expenditure payable to local governments under proposed section 36A(5). Given that these amounts are separate and bear no relation, as such, to each other, the advice provided is that the use of “or” rather than “and” is therefore appropriate. In relation to section 36G(3)(a)(i), I am advised that as described in the explanatory memorandum the intent is to identify the part of the total FESA estimates that will be funded by the levy. To achieve that, it is necessary to deduct the amount of expenditure identified under 35B(2)(a) because this expenditure will continue to be funded from the consolidated fund and the moneys appropriated by Parliament will also be provided from the consolidated fund. Hon Derrick Tomlinson also referred to proposed section 36G, which seeks to provide the minister, by a notice published in the *Government Gazette*, with the power to determine the ESL that is payable on all land for the next levy year.

I was asked whether the determinations would be made on individual pieces of land or whether they would be made using a more generalised format that included all land. The advice that I have been given - I thought we had stopped using such a word - is that the process is to ensure transparency and that the intent is to publish a matrix for each ESL category. Where is Hon Peter Foss when I need him! It is amazing that when we come over to this side we always refer to matrixes. The matrix will include the ESL rates in the dollar and minimum and maximum dollar amounts for each purpose for which land may be used; that is, vacant, farming, residential single, residential multiple, commercial or industrial. Hon Bruce Donaldson made interesting points about the recovery of an unpaid levy or levies and the sale of land if the levy remains unpaid. I am advised that if procedures for the sale of land were taken by FESA under proposed section 36ZC(5), the payment of the levy would have priority over the payment of local government rates and charges. If procedures for the sale of land were taken by a local government under the Local Government Act 1995, under clause 5(b)(i) of schedule 6.3 of that Act, payment of the rates and charges seem to have priority over the payment of a levy, provided that there is enough money from the sale of the land to pay all the amounts due under section 5(b).

Sitting suspended from 1.00 to 2.00 pm

Hon NICK GRIFFITHS: Before the suspension, I was dealing with the issue of ranking in the event that the levy is not paid. I had dealt with the procedures for sale under the Fire and Emergency Services Authority of Western Australia Act, and I was part way through my explanation of procedures for sale by a local government under the Local Government Act. I will return to that, perhaps by way of repetition, so that there is some sense to it. Under clause 5(b)(i) of schedule 6.3 of the Local Government Act 1995, the payment of rates and charges seems to have priority over payment of the levy, provided there is enough money from the sale of land to pay all the amounts due under clause 5(b). Paragraph (b) provides that if not enough money is available, pro rata payments will be made to the State Government and local government unless another order of ranking is specifically agreed to by the Governor or relevant minister. I am advised that that would take place in extreme circumstances.

The next substantive issue - among many substantive issues raised by Hon Bruce Donaldson, which I trust I have dealt with - was about proposed section 36G(3)(b). There was concern about the words “any other matter the Minister”. The reason for that wording is so that the relevant minister can take into consideration unforeseen circumstances that might arise which could affect the amount of a levy to be raised in a year; for example, if the Fire and Emergency Services Authority of Western Australia were to underspend in a year, the clause would enable the minister to take into consideration the funds in hand that could be applied to the following year’s estimates. Members should note that I have made reference to unforeseen circumstances. It is an interesting unforeseen circumstance in which an agency underspends, although it does occur from time to time. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Kate Doust) in the Chair; Hon Nick Griffiths (Minister for Racing and Gaming) in charge of the Bill.

Clause 1: Short title -

Hon DERRICK TOMLINSON: To expedite the passage of this Bill, I indicate that I will seek clarification only on clause 6 and proposed sections 35B and 36ZG.

Clause put and passed.

Clauses 2 to 5 put and passed.

Clause 6: Section 12 amended -

Hon DERRICK TOMLINSON: Clause 6 amends section 12 to enable the authority to benefit from innovations and to exercise ownership, including patent rights, copyrights or similar rights over its own innovations. Other government agencies enjoy those benefits; I think the Department of Land Administration has benefited in this way, and also technical and further education centres. It is my understanding, from a legal opinion, that a government agency funded by the State cannot own property or intellectual property innovations, including patent rights, because they belong to the beneficial owner, which is the State. The beneficial owner is the body that funds them. However, it is possible, by means of a legislative decision, to confer that right from the State in general to a government agency. I want to make sure that the intention is a transfer or a conferring of that right upon the Fire and Emergency Services Authority.

Hon NICK GRIFFITHS: That is so, but the authority remains an agent of the Crown as set out in clause 5, to which the committee has just agreed.

Clause put and passed.

Clauses 7 to 14 put and passed.

Clause 15: Part 6A inserted -

Hon NICK GRIFFITHS: I move -

Page 17, line 10 - To insert before "is" the words "except as provided in the regulations,"

This amendment provides for the establishment of regulations that will be used to identify the state government entities whose levy obligations will be assessed and collected by the respective local governments rather than by the authority. This will happen only when the local government is already assessing and billing those entities for council rates. This arose during discussions with local governments. The State Government entity in this category is Homeswest, and Homeswest rental housing is assessed by local authorities.

Amendment put and passed.

Hon NICK GRIFFITHS: I move -

Page 21, lines 21 to 31 - To delete the lines and insert instead -

36U. Local government may credit levy to municipal fund or trust fund

- (1) A local government may credit to its municipal fund or trust fund amounts of levy and levy interest paid to the local government.
- (2) Despite section 6.9(3) of the *Local Government Act 1995*, a local government may retain interest earned from investing amounts of levy and levy interest credited to its trust fund.

This amendment empowers local governments to credit levies and levy interest received to either their municipal fund or trust fund. It will mean that a local government that receives a single payment from a property owner to cover council rates and levy may credit such payments to a single bank account rather than potentially have to credit separate amounts to separate bank accounts. A local government may retain interest earned from investing amounts of levy and levy interest credited to its trust fund. The need for ministerial approval of such retention has been removed because it was considered too prescriptive; this came out of the process of discussion referred to by a number of members in their second reading contributions.

Amendment put and passed.

Hon DERRICK TOMLINSON: I have misled the Committee. We have jumped over the clause to which I wished to refer. I referred to proposed section 35B, which is dealt with in clause 13. Likewise, my reference to section 36ZF should have been to the proposed new section that comes under clause 15. Is it possible to refer to those clauses at the end of this session?

The DEPUTY CHAIRMAN (Hon Kate Doust): We are still dealing with clause 15.

Hon NICK GRIFFITHS: I have no objection to the honourable member raising his query about clause 13 now.

Hon DERRICK TOMLINSON: I apologise for my carelessness. My query relates to a question I asked during the second reading presentation - I am reluctant to call it a speech - and the minister's explanation. Proposed section 35B(2) states that "Without limiting subsection (1), an annual estimate" is to include (a) or (b). My concern is about the word "or" - is that the disjunctive case as opposed to the conjunctive case?

Hon Nick Griffiths: I would never take issue with the honourable member on those matters.

Hon DERRICK TOMLINSON: The annual estimate is to identify (a) or (b). The minister's explanation is that (a) and (b) - that is, the amount attributable to services provided and the amount payable to local governments - are two separate and distinct entities. The "or" is required to distinguish between them. In fact, both are required to be included in the annual estimates, but they are to be identified separately. The explanatory memorandum indicates that under proposed section 35B, FESA's annual estimate of expenditure is to include and specifically identify the estimated expenditure related to prescribed services to be provided under the emergency services Acts - for example, the cost of the Volunteer Marine Rescue Services - and local governments' estimated expenditure on their fire and emergency services.

The clear meaning of proposed section 35B(2) is that the estimate of expenditure is to identify this or that. I thank Hon Louise Pratt; her timing was absolutely perfect! I was watching the conductor. This or that is the clear meaning. We should remember that the interpretation of the law is the clear meaning according to standard English. However, this or that is not the intention. The intention is that -

without limiting subsection (1), an annual estimate of expenditure under this section is to identify separately the amount of that expenditure that is estimated -

(a) to be . . . ; and

(b) . . .

The wording identifies specifically the amount for this and for that. I suggest that the words in the explanatory memorandum are clearly to identify specifically this and that. The words in the Bill are not ambiguous; they are specifically clear in the opposite intention - disjunctive versus conjunctive. The conjunctive is intended not to combine those two but to identify them specifically and separately. I ask the minister to respond.

Hon NICK GRIFFITHS: I thank the member for his observations. I am instructed that there is a typographical error in the explanatory memorandum and that the word "and" should be "or". These things happen. Many words are involved and it is important to get the words right. They are both there for separate purposes; therefore each must be dealt with separately.

Hon DERRICK TOMLINSON: I accept that that is the intention. I also accept that the word "and" in the explanatory memorandum should be "or." I refer now to the clear meaning. Proposed subsection (2) provides that an annual estimate of expenditure under this section is to identify the amount of that expenditure that is estimated by (a) or by (b). Unless I am reading it incorrectly, that sum is to include this or that but not this and that, identified separately. If we use the words "this and that", they can be taken together to mean a sum. If we mix apples and oranges, we have fruit salad. If we want to identify the apples and the oranges, we identify the apples and oranges separately or specifically.

Hon Alan Cadby: You will get into algebra then.

Hon DERRICK TOMLINSON: Will I? I do not know what I am getting into. I am trying to clarify that the Bill should be worded so that the common person can understand it; I accept that I am very common. I want to be able to understand it.

Hon NICK GRIFFITHS: Again, Hon Derrick Tomlinson is expressing a very good principle that people should be able to read and readily understand Bills. I have always wished that were the case and I will continue to do so. The advice I have been given is that the correct word is "or", as these are separate and they need to be identified separately. If they both apply they must both be set out. Again, I note and appreciate very much Hon Derrick Tomlinson's words of wisdom on the use of grammar.

Hon DERRICK TOMLINSON: I will not be here, but I bless the people who will amend this clause with good luck.

Hon Nick Griffiths: I am sure you will be here.

Hon DERRICK TOMLINSON: I refer now to amendment No 3/15 on the supplementary notice paper. The Government has signalled publicly its intention to establish a State Administrative Tribunal. That tribunal will embrace the range of agencies that have a function in arbitrating administrative disputes. As we found after all the laborious discussion on the Town Planning Appeals Board, it will be one of the first to be absorbed into the new State Administrative Tribunal. The procedures under proposed sections 36ZE, 36ZF and 36ZG in proposed division 8, headed "Objections and appeals", provide that a person may object to an assessment and, if he is

dissatisfied with the determination, he may require the minister to treat the objection as an appeal, and the minister is to refer the appeal to the Land Valuation Tribunal. Is the Land Valuation Tribunal expected to become part and parcel of the process of the State Administrative Tribunal?

Hon NICK GRIFFITHS: That is the Government's intention. However, it will be considered by the Parliament in due course.

I refer now to amendment No 3/15 on the Supplementary Notice Paper and I move -

Page 29, after line 33 - To insert -

Division 9 — ESL agreements

36ZI. Definitions

In this Division —

“**ESL agreement**” means an agreement entered into under section 36ZJ;

“**leviable land**” does not include leviable land in relation to which the Authority serves or gives a notice under section 36L(2) or 36N.

36ZJ. Authority may enter into agreements with local governments

- (1) The Authority may, with the approval of the Minister, enter into a written agreement with a local government that provides for the local government to pay to the Authority an amount equal to the total amount of levy payable for a levy year on all leviable land in the local government's district.
- (2) An ESL agreement may provide for the amount that is to be paid to the Authority under the agreement to be paid by instalments.
- (3) If an amount (including an instalment) remains unpaid after it becomes due and payable under an ESL agreement, the Authority may recover the amount, and interest on the amount at the rate prescribed by the regulations, as well as any costs of proceedings for that recovery, in a court of competent jurisdiction.

36ZK. Modification of operation of Part 6A

If a local government enters into an ESL agreement this Part is to be read, for the purposes of the levy payable on leviable land in the local government's district for the levy year to which the agreement applies, as if the provisions mentioned in column 1 of Schedule 1A were amended or repealed as set out in column 2 of that Schedule.

This amendment seeks to insert new division 9, which deals with emergency services levy agreements. It establishes a division to accommodate an alternative levy remittance proposal developed by the City of Stirling, which was discussed during the second reading debate by a number of members and is being actively promoted by the north metropolitan zone committee of the Western Australian Local Government Association. It involves the billing of the levy as required by the Bill, but incorporates alternative internal administration of the levy by the local governments that elect to adopt the proposal, and an alternative remittance arrangement of the levy from local governments to the authority.

Proposed section 36ZI deals with the definitions required in the agreements. Proposed section 36ZJ will allow local governments the option of either proceeding with the administrative arrangements outlined in the Bill or, with the approval of the minister, to enter into an ESL agreement with the authority. An ESL agreement between the local government and the authority will specify the time frames and quantum of remittance from the local government to the authority. This is a variation from the provisions in the Bill, which would normally require the local government to periodically remit its collections of levy and levy interest. As with the standard arrangements in the Bill, if an amount is due but not paid to the authority by the local government, interest is payable and the amount may be recovered. Proposed section 36ZK recognises that the provisions of the Bill in its current form will not apply or will apply only in part to local governments that elect to operate under an emergency services levy agreement. Proposed schedule 1A identifies those provisions and the extent of their application under arrangements covered by ESL agreements. This is part of the process of modification following the consultation that occurred with the north metropolitan zone committee.

Hon DERRICK TOMLINSON: The Opposition commends this amendment. Hon Robin Chapple referred to it in his speech during the second reading debate. I recall that he commended it to the Government. The matter has been addressed by Hon George Cash and me. The Government has shown considerable flexibility and a willingness to listen to local government. This amendment meets the wishes of the north metropolitan zone committee, and for that reason it should be commended. Hon George Cash made the point that it does not meet

every requirement. However, the minister is pragmatic, and we cannot possibly satisfy the expectations of all people all the time. I am encouraged that the minister in his response indicated that there will be ongoing consultation with Mr Rodney Constantine from the City of Stirling. He represents the north metropolitan zone committee and, no doubt, Western Australian local government interests. That is highly desirable. That is the sort of consultation that will promote the satisfactory implementation of this Bill, and the Opposition supports the amendment.

Amendment put and passed.

Hon BRUCE DONALDSON: I refer to proposed division 9, "Fees and charges". Proposed section 36ZI refers to the establishment and charging of a services fee. Proposed subsection (1) lists the reasons a fee or charge could be imposed. Proposed subsection (2) states -

A fee or charge for a service referred to in subsection (1) provided in respect of land is payable -

- (a) by the owner or occupier of the land; but
- (b) only if the Authority serves the owner or occupier with written notice of the fee or charge within 21 days after the service is provided.

I am interested in those cases in which the land is already subject to the levy. Could the minister provide a couple of examples of cases in which a service fee or charge would be applied? I imagine that once this legislation is in place and the levy comes about, an occupier would be serviced by the existing organisations that have been funded by those particular occupiers or landowners.

Hon NICK GRIFFITHS: Several categories are set out. Proposed section 36ZI(1)(a) deals with services on land that has been exempted. If land is exempt from the levy and a service is provided, the owner or occupier could be charged. If someone who is exempt from the levy is provided with a service, it might be appropriate that he be charged. Proposed paragraph (c) relates to services provided to confine or end a hazardous material incident and render the site of the incident safe. That would be an extraordinary event and expense. I do not want to mention a particular recent example of a hazardous site, but this provision may be required. If someone has done something to an industrial site that is out of the ordinary and a service must be provided, it seems appropriate that the owner or occupier of that site be charged. Proposed paragraph (d) deals with false alarms and the causing of people to go out and do things. Those people should be billed.

Hon Bruce Donaldson: It would be hard to track an anonymous telephone call.

Hon NICK GRIFFITHS: It would be very hard. There are always practical difficulties in life. Our very good laws prohibiting murder do not prevent murder from occurring.

Clause, as amended, put and passed.

Clauses 16 to 30 put and passed.

Clause 31: Section 17 amended -

Hon NICK GRIFFITHS: Two amendments to this clause are listed on the supplementary notice paper. They work together. The first amendment reflects the fact that two subsections will be inserted into section 17 of the Rates and Charges (Rebates and Deferments) Act 1992, and the second relates to the insertion of that new subsection, which will provide that reimbursement for rebates claimed by local governments operating under an ESL agreement with the authority may be made directly to the local government rather than the authority. The first amendment reflects the second. I move -

Page 36, line 25 - To delete "subsection is" and substitute -
subsections are

Amendment put and passed.

Hon NICK GRIFFITHS: For the reasons I outlined a few moments ago, I move -

Page 37, after line 5 - To insert -

- (1c) Subsection (1b) does not apply to an amount to be reimbursed or paid to a local government in respect of which there is in force an ESL agreement entered into under section 36ZJ of the *Fire and Emergency Services Authority of Western Australia Act 1998*.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 32 to 35 put and passed.

New Clause 17 -

Hon NICK GRIFFITHS: I move -

17. Schedule 1A inserted

After Schedule 1 the following Schedule is inserted -

“

Subdivision 1A - Modification of operation of Part 6A

[s.
36Z
K]

column 1: provision	column 2: amendment or repeal
s. 36P	Subsection (2) is repealed and the following subsection is inserted instead - “ (2) The levy is payable to the local government for the district in which the leviable land is located. ”.
s. 36S(1)	“or the Authority, as the case requires,” is deleted.
s. 36T(3)	“or to the Authority” is deleted.
s. 36U	The section is repealed.
s. 36V	The section is repealed.
s. 36X	The section is repealed.
s. 36Z(1)	“or by the Authority” is deleted.
s. 36Z(2)	“or the Authority” is deleted.
s. 36Z	Subsection (3) is repealed and the following subsection is inserted instead - “ (3) In subsection (1) - “land” has the same meaning as “leviable land” has in Division 9. ”.
s. 36ZB	The following definitions are inserted in the appropriate alphabetical positions - “ “land” has the same meaning as “leviable land” has in Division 9; “the local government” , in relation to land, means the local government for the district in which the land is located. ”.
s. 36ZC(1) and (2)	“Authority” is deleted in each place where it occurs and the following is inserted instead - “ local government ”.
s. 36ZD	“Authority” is deleted in both places where it occurs and the following is inserted instead - “ local government ”.
s. 36ZH(2)(b)	After “payable” the following is inserted - “ and to the local government ”.

”.

This amendment inserts schedule 1A and follows the process of the northern zone and consultations with Mr Constantine. It identifies the provisions of the Bill in its current form that will not apply or will apply only in part to local governments that elect to operate under an emergency services levy agreement. For example, proposed sections 36P, 36S(1) and 36T(3) are to be read without reference to the authority. Only the local government concerned will collect the levy for land that falls under the new definition of leviable land specifically for matters that are covered by ESL agreements. Proposed section 36U will no longer apply. Local governments may credit the levy to the municipal fund or the trust fund will not apply. Local governments operating under ESL agreements would receive levies and levy interest in their own right under the usual operation of the Local Government Act 1995 that allows such amounts to be credited to a local government's municipal fund.

Proposed section 36V would not apply. Local governments operating under ESL agreements would be remitting moneys to the authority in accordance with the terms of the respective ESL agreement. Proposed section 36X would not apply. Such matters would instead be covered by proposed section 36ZJ(3). Proposed sections 36Z, 36ZB, 36ZC and 36ZH are to be read with reference to the authority being changed to the local government. I always enjoy dealing with legislation when we deal with proposed sections 36ZA, 36ZB and 36ZG etc.

New clause put and passed.

Schedule 1 -

Hon NICK GRIFFITHS: I move -

Page 41, line 12 - To delete "subsection" and insert instead -
"subsections".

This amendment reflects the fact that two subsections are being inserted rather than one subsection.

Amendment put and passed.

Hon NICK GRIFFITHS: I move -

Page 41, line 15 - To delete "37.5%" and insert instead -
"the specified percentage".

This deals with a matter raised by the insurance industry, which has advised that it will not be able to commence insurance premium reductions from 1 January 2003 because it must give its customers six weeks notice to effect such adjustments. At this stage, we do not know on what date the relevant parts of the Bill will come into operation. This means that the insurance industry's contributions under the Fire Brigades Act will continue for longer and will be greater than the 37.5 per cent it previously provided. The insurance industry does not wish to commence premium reductions until it knows when the relevant parts of the Bill will come into operation. Therefore, the transitional provisions with regard to the insurance industry's contributions have been made less prescriptive and will be determined in due course. That is necessary because the industry needs to phase in the new operation in an orderly way.

Hon BRUCE DONALDSON: This raises a very good point on which I would like some clarification. The Insurance Council of Australia Ltd and the insurance companies want to be given extra time to notify their policyholders of the changes. Many people pay their insurance policies from 1 July to 30 June, which is not a problem. However, some people pay their insurance policies from 1 January to 31 December. Many people in the farming industry pay during the calendar year. At 30 June 2004 when the new levy kicks in, will the insurance companies rebate a percentage of that levy that they have already imposed on insurance policies? Has the industry spoken to the Government and assured it that the industry would do the right thing by its consumers?

Hon NICK GRIFFITHS: The member wants to know what happens to the policyholders who pay their insurance policies up front from 1 January to 31 December 2003 when this new regime will not be in operation. Those policyholders might pay their insurance during the financial year. In due course, the Bill will become the Act and the relevant part of it will come into operation. Will those policyholders end up getting a rebate in that time? I am advised that they will not. The insurance company will continue to pay the levy over that period. The arrangement is that the policies will be taken out and money will be paid. That is the end of the matter unless there is another adjustment between the policyholder and the insurance company. I am advised that the insurance company passes it on to the Fire and Emergency Services Authority. FESA might need to raise fewer funds. The point the member raises is specific to the policyholder.

Hon BRUCE DONALDSON: I am disappointed to hear that. One of the selling points has been that this new levy will be cost neutral and might even benefit consumers when it is imposed. I am a policyholder and I pay

my insurance premiums up front from 1 January to 31 December. Given that this legislation may take effect from 1 July 2004, I might deduct my own half of the levy, knowing full well that the specified amount that the insurance companies will pay to the Fire and Emergency Services Authority of Western Australia will be half of what they normally pay. Whatever that amount is, the Insurance Council of Australia Ltd contributes 75 per cent. As a policyholder I will probably say to my broker that I will pay half of what the insurance companies impose on me for a full year and will send off my cheque because for six months after that I will have already paid the levy on the properties I own in conjunction with the new levy that is being imposed. I am a bit annoyed that the insurance companies have not played the game.

Hon NICK GRIFFITHS: Either I misunderstood the question or misunderstood the advice that was given to me. I thank the member for his persistence. My advice is that when the insurance industry is in a position to know the dates and the period of six weeks or thereabouts has elapsed, an appropriate rebate between the company and the policyholder will be given.

Hon Bruce Donaldson: That is the point I was making.

Hon NICK GRIFFITHS: I thought that was the point the member was making but I misunderstood the advice given to me. Like the member, I would be very concerned if that were not the case.

Amendment put and passed.

Hon NICK GRIFFITHS: I move -

Page 41, after line 17 - To insert -

(2aa) In subsection (2) -

“the specified percentage” means the percentage specified by the Minister by notice published in the *Gazette*.

This amendment provides that the insurance industry’s contribution for 2003-04 will be determined by the minister and published in the *Government Gazette*.

Amendment put and passed.

Hon NICK GRIFFITHS: I move -

Page 41, lines 23 and 24 - To delete “in 2 equal instalments not later than 1 July 2003 and 1 October 2003” and insert instead -

at the times, and in the instalments, specified by the Minister by notice published in the *Gazette*

This amendment reflects that just as the amount of the insurance industry’s contribution in 2003-04 is expected to increase from the 37.5 per cent previously provided for, the timing of the contributions may need to be varied from that previously prescribed; for example, consideration may need to be given to a variation for the period commencing 1 January 2004.

Amendment put and passed.

Schedule 1, as amended, put and passed.

Title put and passed.

Bill reported with amendments.

Leave granted to proceed forthwith through remaining stages.

Report

Report of the Committee adopted.

Third Reading

Bill read a third time, on motion by Hon Nick Griffiths (Minister for Racing and Gaming), and returned to the Assembly with amendments.