

FINANCIAL ADMINISTRATION AND AUDIT AMENDMENT BILL 1999

Second Reading

Resumed from 17 November 1999.

HON N.D. GRIFFITHS (East Metropolitan) [4.24 pm]: The Australian Labor Party supports the passage of this Bill. When it was introduced a year ago it was thought appropriate that it be referred to the Standing Committee on Estimates and Financial Operations. The House acceded to that view. The committee has now presented a report on this Bill. I note the contents of the report, particularly a recommended amendment, which I am advised the Government will adopt. I also note, regarding the implementation of the policy of the Bill on the issue of capital user charges that the committee recommended that Treasury officials deal with affected agencies on a one-to-one basis. I am advised that that recommendation will be taken up.

The Bill deals with three areas: First, it allows for accrued appropriations to occur for the payment of funds into suspense accounts. Prior to the matter being referred to the Standing Committee on Estimates and Financial Operations, the application of this provision was intended to be very wide. I will not deal with matters we will debate in committee, but as a result of the standing committee's recommendations - which I am pleased to note will be taken up by the Government - the operation of this provision will be restricted quite properly to matters pertaining to leave, superannuation and depreciation. The second area of policy is not controversial and it relates to the facilitation of e-commerce on the part of government agencies. The third area has been the subject of comment and significant examination by the committee and it relates to the capital user charge. The introduction of capital user charges has the potential to affect the functioning of agencies by making - to use what is becoming rather commonplace terminology - their accounts more transparent so that the true value of particular costs can be ascertained and taken into account when agencies deliberate on financial decisions. In practice, this will mean that agencies the subject of capital charges will have their appropriations increased by the amount of the capital charge, and then, on the other side of the ledger, that will flow back by way of revenue. Potentially the culture of the public sector could be changed adversely if the use of capital charges causes agencies to form the view that it is incumbent upon them to sell off assets without good cause. In the end, we are dealing with modern, more up-to-date accounting practices that have the potential to lead to our State being better governed than it is currently. A potential downside of the change in culture may be the sell-off of assets that should not be sold off; but I note that substantial assets are now being sold off which should not be. On a number of occasions Hon Ed Dermer has raised the issue of the Scarborough Senior High School, located in the seat of Innaloo. However, this legislation has not caused the sell-off of that site, nor need it cause such a change in culture. Bad government causes bad practices to occur, not legislation of this nature that will modernise accounting practices and is potentially beneficial to the State of Western Australia.

Hon Bob Thomas: It is the people, not the system.

Hon N.D. GRIFFITHS: That observation has been made on other occasions. It is not the system, it is the people in charge who get it wrong, and, as Hon Bob Thomas so eloquently points out, they have really got it wrong. When it comes to this legislation, the Government may be assured it has the support of the Australian Labor Party. We are grateful for the opportunity to assist the Government in getting it right with the foreshadowed issue that will be addressed. We will know for certain tomorrow, but I note that if an election is not held this calendar year, there is a possibility that the provisions of this Bill will impact on the obligations of government under the financial responsibility legislation that was passed earlier this year. It will be a very interesting exercise indeed to note the increased appropriations balanced by the increased revenue in the financial documents that the Government is obliged to provide during the election period. I note that that is only a possibility at this stage.

In keeping with the positive attitude of the Australian Labor Party to making Western Australia a better place for all who live in it, and all who will live in it in the future, I commend the Bill to the House.

HON HELEN HODGSON (North Metropolitan) [4.30 pm]: This Bill has been around for some time, to the frustration of some officials in Treasury. That is because members believed when it first came into the Parliament that it was important to consider the impact of the legislation not only on the way in which public sector finance departments are organised, but also on the constitutional relationship between the Houses - a question arose about how it may affect the powers of this Chamber to deal with financial Bills. For these reasons the Bill was referred to the Standing Committee on Constitutional Affairs some time ago, and I was fortunate to participate in that committee. I have discussed the legislation in some detail with not only Treasury officials but also people from other departments and members of this House.

The Bill deals with three issues and I shall deal with the easiest first; that is, electronic transactions. This is a standard case of technology having overtaken the way in which legislation was drafted. It was recommended that the legislation be tidied up to ensure that electronic transactions are acceptable without the requirement for

paper certification. Since the Bill's second reading, another Bill relating to electronic transactions has been introduced into the Parliament and is currently with one of the committees of this place. I have not yet conducted a cross-match to see whether it supersedes the provisions in this Bill. This Bill predates it and deals only with government departments. In that sense I can understand the Treasury's desire to have the legislation passed promptly because it will impact on the way it does business. I will check the relationship between the two Bills when the other Bill comes into the Parliament. However, I doubt there will be any inconsistencies between the two because it simply broadens the application of the legislation.

Hon Peter Foss: It is a general law reform.

Hon HELEN HODGSON: That is correct. The next issue relates to accrual appropriations, which I addressed at some length when this Chamber referred the Bill to the committee a year or so ago. One of my key concerns was the way in which the legislation was framed around the concept of a relevant commitment, yet there was no definition of a "relevant commitment". It was suggested that "relevant commitments" are already referred to in the Financial Administration and Audit Act, so we should not be worried about this now. That highlighted a matter that had not been brought to the Australian Democrats' attention before because it had not become relevant. However, it was an undefined term that could cause some difficulties with the new legislation.

It is easy to understand the concept - I am speaking now as an accountant - that if a cost relates to a current period but is not paid until a future period, provision must be made in the accounts for that cost. We do that every year by providing for long service leave, depreciation, superannuation and so on. The problem is that government sector accounting has been run on a cash basis with no provision for these expenses. The Democrats highlighted the question of unfunded liabilities in the recent debate on the State Superannuation (Transitional and Consequential Provisions) Bill. The cash system of accounting does not require real dollars to be put aside and, even if no real dollars were put aside, at least it should be reflected in the accounts as a growing liability. The issue also relates to an aspect raised frequently in this House by Hon Ljiljana Ravlich about accrued leave liabilities and the responsibility of government departments to reduce those liabilities, as they are real costs and must be reflected somehow in the accounts. I have no problem conceptually with a shift in the system to ensure that these matters are provided for.

My problem is with the way in which the legislation was drafted; it was not limited to these issues. The committee attached to its report a recommended amendment on that matter and I am pleased to note that it is not the same amendment as that which appears in the Supplementary Notice Paper. The committee approached the issue with the attitude that, although we were told of only three issues in the Bill, something else might arise; therefore, the drafting prepared by the committee included a catch-all amendment. I would much rather the legislation were tailored to meet the situations for which the Treasury told us it was designed. The amendment on the Supplementary Notice Paper limits it to those instances, and I am pleased that the Government has not adopted the exact committee recommendation. The Government's amendment is tighter, more accountable and more appropriate. There remains, therefore, the issue of what is a relevant commitment. I am pleased to see that that will be dealt with in the committee stage.

The Standing Committee on Constitutional Affairs addressed the issue of whether the shift to accrual appropriations impinges on the constitutional powers of the House when it deals with money Bills. Extensive discussions took place on that matter and the committee concluded that time and modern accounting systems have taken us beyond the wording and framing of those constitutional provisions. We cannot deal with that matter at this stage because it requires a lot more investigation. The committee suggested that the matter be reviewed periodically and that the constitutional provisions relating to financial matters not fall totally out of step with what is occurring in practice in the modern world of commerce. The committee did not make a specific recommendation on the matter, but it concerned members at the time. In paragraph 3.41 of the report the committee stated that, as a result of the inquiry, it is giving consideration to conducting a re-evaluation of parliamentary appropriations and of the powers between the two Houses of Parliament with respect to revenue and expenditure. The issue is whether the constitutional provisions are adequate in the modern environment.

The third issue of capital user charges in the Bill is probably the one about which I am most ambivalent. As an accountant, I can understand the argument for needing a capital user charge. When I lectured at the School of Business at Curtin University of Technology, one of my lectures was framed around financing options and when it is appropriate to purchase or lease and how to evaluate those two alternatives. In a sense, that is what Treasury is trying to implement with the capital user charge. It is trying to remind government agencies that a cost is associated with ownership of property and assets, and that cost must be included in the decision-making process when determining which option to use when acquiring assets and financing options. Intellectually and academically, I can understand where Treasury is coming from. However, I can see massive problems in implementation. The discussion paper on capital user charges, which I downloaded from the Internet, is several hundred pages long. It deals with the subject in some detail, but there are still many grey areas, and areas in which it is acknowledged that there will have to be exclusions. When we spoke to a number of the agencies

about the capital user charge, we received very different messages, ranging from agencies which thought it would be a good idea and which were ready to implement it, to agencies which had not discussed it. Although a reference group of the heads of certain agencies was convened, not all agencies have been directly involved in discussions with Treasury on the impact of this capital user charge. I would not say that misinformation has been provided, because many have had no information at all, but much apprehension and uncertainty exists in some agencies about how this measure will affect their budgets. I will not, however, oppose that part of the Bill, because it is primarily an administrative issue that Treasury should be able to manage. That is why the committee recommended very prompt one-on-one discussions between Treasury and each agency that will be affected by the capital user charge, with the aim of identifying any problems. Discussions we had with the different agencies indicated a huge number of potential problem areas, and the fact that this Bill allows such a charge does not in any way mean to me that it should be imposed. The discussions must continue, and Treasury must sort out these issues with agencies before the budgeting round starts.

The other recommendation of the committee is about directions issued by the Treasurer. Members noted that the capital user charge is to be determined by way of written directions issued by the Treasurer pursuant to the Act, and we are concerned about whether these directions will be incorporated in any form of public reporting. After some discussion we recommended that it was appropriate for this information to be included in the budget papers when they are tabled. I would be pleased to hear from the minister at a later stage in this debate whether the Government has considered recommendation No 3 of the committee report, to ensure that directions are included in the budget papers when they are tabled. That would not be a particularly onerous requirement, because it is simply a matter of compiling information in a report that is already being tabled in both Houses. Those were the key areas of concern which came before the committee. I am a little ambivalent about the application of the capital user charge, but I am happy with the accrual appropriation as it relates those specified areas. The Australian Democrats will support this Bill.

HON J.A. SCOTT (South Metropolitan) [4.44 pm]: The Greens (WA) will support the Bill. I do not intend to give a comprehensive analysis as did Hon Helen Hodgson, and I do not think I could. I believe the concerns of the committee about the relevant commitment definition have been met by the addition to the Bill. I understand that was the principal concern, and I will support the Bill.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

The CHAIRMAN: This Bill is the subject of the thirty-third report of the Standing Committee on Estimates and Financial Operations. Specific amendments were proposed by that committee; therefore, I am required to formally put the motion at the commencement of this committee stage. The question is -

That the amendments recommended by the Standing Committee on Estimates and Financial Operations be read into and deemed part of the Bill.

Hon PETER FOSS: I ask the Committee of the Whole House to reject that motion because I wish to move amendments different from those, as referred to by Hon Helen Hodgson. To do that this motion must first be defeated.

Question put and negatived.

Clauses 1 to 3 put and passed.

Clause 4: Section 27 amended -

Hon PETER FOSS: I move -

Page 2, line 21 - To delete "the" and insert instead "any".

This allows payments to be made from a suspense account in relation to any relevant commitment, instead of the relevant commitment. This will improve the Bill and assist with the transfer of funds from a suspense account without the requirement to track the commitments; for example, superannuation or leave entitlements for individual years.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 2, line 22 - To insert after “commitment” -

and, subject to subsection (3), are not to be applied in any other way

This amendment qualifies section 27(1a) to ensure that payments out of suspense accounts are not to be made up other than in relation to relevant commitments.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 2, after line 22 - To insert -

(1b) In subsections (1) and (1a) —

“relevant commitment” means a commitment that —

(a) is relevant to the financial year referred to in subsection (1); and

(b) is in respect of superannuation, leave or depreciation.

This amendment tightens the definition of “relevant commitment” and does away with the affirmative resolution method. It will require that the Act be amended to widen the definition.

Amendment put and passed.

Clause, as amended, put and passed.

The CHAIRMAN: The question is that clauses 5 to 7 be agreed to.

Hon HELEN HODGSON: I asked a question in relation to clause 7 which the minister may be able to answer now that his advisers are here.

The CHAIRMAN: I am required under standing orders to put those clauses without debate. The possibility existed only under clause 1 to raise questions. Clause 1 has been passed. The amendments from the standing committee relate to standing order No 234(a), and debate is not possible unless an amendment is on the Supplementary Notice Paper.

Hon PETER FOSS: I understand your ruling, Mr Chairman, which unfortunately has prevented me from stating that the answer is yes. I accept the ruling.

Clauses 5 to 7 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Peter Foss (Attorney General), and returned to the Assembly with amendments.