

**SMALL BUSINESS DEVELOPMENT CORPORATION
AMENDMENT (COVID-19 RESPONSE) BILL 2022**

Remaining Stages — Standing Orders Suspension — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [1.08 pm] — without notice: I move —

That so much of standing orders be suspended to enable the Small Business Development Corporation Amendment (COVID-19 Response) Bill 2022 to proceed through its stages at dates and times determined by the house.

If I may, President, this is the first of two motions that I will move now. I will explain the process because this is the first time that the house has used these provisions, so I want to make sure that everyone understands what we are doing. I just moved a suspension of standing orders that will allow the bill to pass through its stages when the house determines. If this suspension motion passes, I will then move that order of the day 14, which is the Small Business Development Corporation Amendment (COVID-19 Response) Bill 2022, be added to the business program. That motion will be put without debate or amendment. If that is carried, the house will then go back to the business program and we will proceed with motions on notice and consideration of committee reports.

When we get to orders of the day, I will move that order of the day 14 be now taken. That is the normal motion that I move at the start of orders of the day; that is put without debate or amendment. When that order of the day is called by the President, in this case, the parliamentary secretary will seek the call and he will declare the bill to be an urgent bill. After that declaration, the parliamentary secretary will seek the call again and will move the motion to set the time for debate, based on the information that each of the parties has provided to us about how much time they need for each section of the debate. The President will then put the question on the motion to the house. That is a debatable motion. The parliamentary secretary might say a few words about that, but it will be a time limited, 30-minute debate. Then the question will be put and we will proceed down the pathway of dealing with the actual bill.

The suspension is to enable us to deal with this as an urgent bill. By way of explanation, the bill is, as the title suggests, an amendment bill related to the COVID-19 pandemic. It provides the authority for the Small Business Development Corporation to make grants. The existing legislative framework under which the Small Business Development Corporation operates does not have a head of power for the corporation to make grants itself; therefore, when the SBDC has been involved in the issuing of grants to assist businesses, it has done that in partnership with other agencies. The urgency of this amendment is that a whole range of business assistance grants relate to the restrictions that are in place due to the COVID pandemic. We want to deal with this bill as a matter of some urgency to give the Small Business Development Corporation that head of power to enable it to issue those grants itself. We do not want to delay this process as we do not want to delay getting that assistance out to those small businesses that are impacted by the restrictions that are in place.

In different circumstances, we might have dealt with this legislation under the COVID temporary standing orders, but they expired in December last year. That is why we are using these provisions to deal with this legislation. The suspension of standing orders motion that I have just moved will enable the house to proceed with that bill today. Immediately after that is dealt with, I will move a second motion that will add the bill to the business program.

I thank members in advance for their support. I know this is controversial. It is the first time we have used the urgency provisions and I appreciate that members will want to apply due scrutiny when we get to the detail of the bill. I note that the minister rang the relevant opposition shadow minister last week to have a conversation and explain the process. That was quite a conscious decision to ensure that we gave everybody the opportunity to understand what we are trying to do as soon as we were able to. I thank members of the opposition for making themselves available at short notice to attend that briefing to enable us to proceed the way that we are proceeding. In advance, I thank the house for its support.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [1.13 pm]: Thank you, President. It is a busy day.

The opposition will allow the government to proceed on this bill and will try our best to assist this bill to pass in a timely and appropriate manner. I note that in conversations behind the chair with the parliamentary secretary handling the bill, we discussed that there is perhaps a vague chance of it being finished today, quite possibly tomorrow morning, but it will not be held up for any particular reason apart from proper debate. The opposition accepts that this is a reasonable bill and we will get into the substance of the bill when we get to the debate proper.

I understand why the government is progressing this legislation, but it behoves us to make a few comments about the urgency of the bill. It is a pity it is not a Thursday, because we tend to have more fun on a Thursday. I think the fun that we have could be focused very much on this particular bill.

The urgency of this bill relates to the intent of the government to shift the provision and the delivery of the grants for COVID compensation for businesses out of various other departments—mostly the Department of Local Government, Sport and Cultural Industries, but also several others, including Main Roads—into the Small Business Development Corporation. That is probably a reasonable move. It would like to do that so that it can apply the analysis, starting with some new programs, I suspect, at the end of this month. There are only a couple of sitting weeks. I understand that the government thinks that this has a degree of urgency, but we have now been discussing this for a year. When considering urgency and the issues for business, we need to remember that this virus is called COVID-19 because it was first identified in 2019, and it came to Western Australia in 2020. The government has had two years to try to get this right. We have to ask the question: Is this urgent because the change is urgent, or is this urgent because the government needs to hide the fact that it has done a poor job to date? What is the urgency?

As much as it would be fun to blame the current minister, my old friend, Hon Don Punch, and the parliamentary secretary, both those fine gentlemen have been in their jobs for only a very short time, so I am not going to spend a lot of time in this chamber attacking either of them. I expect when we get to the substance of the debate, we will have a very forthright debate, because both I and the parliamentary secretary are known for that. I think it will be a substantive and forthright debate; I think it will be significant. But at the beginning of the COVID pandemic, the Minister for Small Business was Hon Paul Papalia, and then for the second year of COVID, the minister was Hon Reece Whitby. I agree that the rollout of business compensation in this state has been a debacle to date and improvement was absolutely necessary. I wish the new minister and the new parliamentary secretary all the best in fixing up the mess that they have been left with. To be honest, when we get to the debate of this bill, I will be saying that this is a good first step. It is perhaps a couple of years too late, but it is a good first step. The question that we have to face is: is this genuinely urgent, and why is it urgent?

I think that the answer is probably fairly obvious. Urgent repair to the bungling of the process is absolutely critical. It is a difficult process. Businesses struggle to understand the business rules as they change week by week. I have to say, I have followed ministers who visit particularly regional areas and have been asked these questions, and I have been told that even ministers cannot generally explain how COVID compensation works for businesses. It changes week by week. There have been 19 press releases in the last 10 months. I will have an hour in debate in a little while, and I could theoretically sit there and read out 19 press releases—it would probably take the whole hour—and point out how often I have had to register a protest at the poor conduct and poor results of COVID compensation for businesses. It has been a multi-faced, changing shemozzle. It is good to see that in bringing this bill before the house, in my view the government has acknowledged its lack of performance to date and the mess of its own making and is keen to improve it. That is a good outcome.

I do not think that we need to spend a lot of time debating why we should debate it now. I think, as an opposition, we are prepared to accept that although it has done some assessment before, if the Small Business Development Corporation is to take over the role of formally assessing, making recommendations, making decisions and distributing grants, then it should start the process as soon as possible. That would make sense and it makes sense that it would go to the Small Business Development Corporation because it at least has some understanding of small business, as opposed to giving it to the Department of Local Government, Sport and Cultural Industries, for example. I do not think local government did much in the way of assessment or making recommendations. It was, effectively, a vessel through which the money passed because its enabling legislation allowed that to happen. We will get to that in a bit more detail when we debate the bill itself. The Small Business Development Corporation is an appropriate place for this to sit.

I acknowledge, as the Leader of the House said, that I was contacted by the minister, Hon Don Punch. We had our conversation. We both have offices in Bunbury, so we have fairly frequent conversations and this was another one. We have had several conversations since about the mechanics of the process. The alliance party room has assessed this and we will support the bill. We will support the government's intent to have it debated forthwith today because we accept that there is a time frame issue. But, be warned; when we get to the bill itself, it will be a very forthright debate about the performance of the government to date, as it rightly should be. There is a reason that change is required. If the first two years of the McGowan government's performance on business management, business regulation and business compensation had been any good, we would not be here, trying to rush through this bill. We would have done it two years ago because it was recognised that it was a dud and we would not be dealing with an urgent bill today. We will go through this in some detail. This is not a fisheries bill, parliamentary secretary; expect to be here a bit longer!

There will be forthright debate on this bill. I look forward to that debate. I think that the demonstration of why change is needed is going to be very important. Opposition members are happy to debate this bill. We are looking forward to it. We are prepared to accept the government's position that it would be ideal to be done during this two-week sitting period. I do not think that, if it were done next week, it would make any difference to the outcome. It potentially would have still required some sort of motion to progress it next week. Whether it is this week or

next week, from my perspective, it does not really matter. I am not sure there would be any significant change to a business package between now and the end of March that would have required it to specifically be done this week, but let us do it. We can get it out of the way and bed it down. Just remember that, in supporting the suspension of standing orders and the bill being debated today or perhaps into tomorrow, the opposition fully understands that this reflects two years of poor performance, which we will demonstrate time and again when we get to the debate proper. I hope we are all looking forward to that.

HON TJORN SIBMA (North Metropolitan) [1.23 pm]: I rise to make some remarks germane to the suspension motion. I will make an observation of the process this afternoon. I thought the Leader of the House did a very good job of explaining the future time and motion dynamic, which is going to apply to the Small Business Development Corporation Amendment (COVID-19 Response) Bill 2022. I make the observation—I do so politely and to the benefit of potential standing order reviews in this chamber—that the process of identifying this bill as requiring special treatment was probably a little bit cumbersome. Out of sheer recognition of the long title of this bill, there was probably some wisdom in uplifting or re-promulgating the COVID temporary standing order that this chamber adopted in the last Parliament. There were some problems, but at least there was a known pathway for the management of COVID-related legislation.

I also reflect on the fact that there does not yet seem to be a seamless process for the introduction of an urgent bill and have it proceeded with forthwith. We are not proceeding with anything forthwith; we are just giving an indication that something is likely to be declared urgent after the next set of proceedings that we have. It seems, frankly, to make somewhat of a mockery of that label. If it were truly urgent we would be doing it right now.

I do not want to foreshadow remarks that are best left to second reading speeches. I will not be participating in that debate, unfortunately. My friend and colleague Hon Dr Steve Thomas has that well in hand, but I want to reflect on the process that we are adopting now because I do not think it necessarily reflects well on this house. This house had an opportunity, although it was not given full consideration, to contemplate alternative means of modernising the standing orders as they apply in the Legislative Council. I can reflect only on what I consider to be a sterling minority report, which was effectively an addendum to an otherwise pretty solid piece of work—the sixty-fourth report of the Standing Committee on Procedure and Privileges. There are some crucial aspects, the President will recall, that I and my colleague Hon Marty Aldridge disagree with. I do not want to do this, but for the general edification of the chamber, because I think it is appropriate here, I will quote from some passages of that very slim but deadly minority report.

Hon Sue Ellery: Much like yourself!

Hon TJORN SIBMA: I am trying to get there! I will accept that. As far as backhanded compliments go in this chamber, that is probably up there in the top shelf! I will accept that unreservedly.

I will quote a couple passages. In particular, I quote paragraph 1.20, in which myself and my colleague authored these fine words —

Ensuring that the core business of the Legislative Council is conducted in a productive and responsible manner necessitates striking a balance between efficient time management concerning the progress of Bills and effective allocation of available time to guarantee the scrutiny of those Bills. Scrutiny should not yield to speed, and neither should speed be sacrificed to scrutiny. An unfortunate consequence of favouring speed over scrutiny is evidenced in the interruptions to debate under the COVID-19 temporary order which are shown at Table 1.

Table 1 is attached to the larger report. Paragraph 1.21 reads —

The central question as it relates to the nature and function of the Legislative Council as a house of review concerns where the balance rests between efficiency and scrutiny. This is a matter of judgement that can only be settled, as it traditionally has been done, with the consensus of the House after considering the views of all Members.

Further, paragraph 1.22 reads —

The adoption of further time management measures such as through the ‘Urgent Bill’ mechanism of the proposed Standing Order 125A ... in our view very obviously tips the balance in the favour of expedience rather than scrutiny.

Those words were put together in the context of this house adopting an interim report of the Procedure and Privileges Committee, which effectively implemented time limits on speaking. We have expedited the passage of bills as fast as we possibly can, but, in that minority report—I will not quote from it again—we talk about effectively the supply chain of legislation-making. I think that is where I will round the circle with remarks made by Hon Dr Steve Thomas. We are relying on a ministerial declaration of urgency. Like all such declarations, this is subjective. It also indicates that this is where the pressure is on because, in the previous two years, there was not a means, or it was not considered necessary, to remediate the deficiency that this proposed bill does. I find that striking because this chamber did

debate an omnibus COVID-19 bill that was managed by Hon Stephen Dawson in his representative capacity for the Minister for Planning. It was an enormous bill and it was there to streamline government decision-making. It was there to reflect and legitimise decisions when authorisation was not necessarily potentially questionable. We are probably a little wiser after the fact, but I thought that that was where the suggested deficiencies with the Small Business Development Corporation directly getting grants out the door probably could and should have been identified and remediated.

We are not standing in the way of the suspension order, but it is worthwhile reflecting on how this process goes and then, no doubt, taking back to the Standing Committee on Procedure and Privileges at some stage a way that we can streamline and regularise this urgent bills mechanism, because I think we are seeing some deficiencies very early on.

The PRESIDENT: Members, this motion requires an absolute majority. Having counted the number of members in the house, an absolute majority is present.

Question put and passed with an absolute majority.

Business Program — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [1.30 pm] — without notice: I move —

That order of the day 14, Small Business Development Corporation Amendment (COVID-19 Response) Bill 2022, be added to this day's business program.

This is the second motion that I flagged in my earlier comments. I thank members for their support of the suspension motion. This motion gives effect to putting the bill on the business program.

Question put and passed.