

LOCAL GOVERNMENT AMENDMENT BILL 2023

Second Reading

Resumed from an earlier stage of the sitting.

MR J.N. CAREY (Perth — Minister for Local Government) [12.28 pm] — in reply: I will briefly touch on some of the comments made by the opposition before we go into consideration in detail on the Local Government Amendment Bill 2023. I appreciate the commentary of all three opposition members who spoke. I note the comments of all members in this chamber and the support that we all have for a dynamic, robust and democratic local government. There was much discussion about culture by both the member for Cottesloe and the member for North West Central.

Yes, member for Cottesloe, we want a robust debate in local government. But we know, as demonstrated by inquiries and the support required from our agency, that from time to time we unfortunately see significant dysfunction result from a breakdown in relationships on councils. That is why we are bringing in these reforms, including standardised meeting procedures, to provide greater clarity around how councils should conduct themselves in debates.

In reference to other issues raised by the member for North West Central, she spoke about CEO performance indicators and the concerns of some councils about them being published. I want to assure the member for North West Central that there will be an opportunity for councils to seek an exemption from the director general for highly sensitive matters. For example, if it relates to staff matters—there may have been previous problems with the staff—and that is a performance indicator, the council could seek an exemption. If it is an indicator about lifting the performance of public green reserves, clearly, that should be on the public agenda.

The member for North West Central also raised the issue of CEO recruitment. I want to clarify that the issue we are trying to tackle is that we currently have an independent member who sits on the panel. We are saying that the agency should have a number of people on the panel so that the agency can have oversight of the independent panel member. The simple reason for this is that concerns have been expressed by the community that the independent panel member, who is currently appointed by councils, occasionally may not be so independent. This is about having a check and balance. I understand why there might be some concerns, but this is about making sure that the director general of the department establishes a panel of suitable people.

I was asked why there was not a green bill. In short, it is because we have had so many inquiries and panel discussions. The feedback from many people and stakeholders was that the consultation process was exhaustive. We want to get on with dealing with the critical issues, both in tranche 1 and tranche 2. The few critics and conspiracy theorists do not acknowledge or accept the significant ongoing consultation and huge amount of work, dating back to 2017, to get to these reforms.

The member for North West Central raised the cost of transparency measures. I note that much of this information is already collected by local government, so to shift it online is not as complex as the member suggested. As the member acknowledged, transparency is important. Making this information easier for ratepayers to access is absolutely critical.

The members for Cottesloe and North West Central made reference to politics in local government. We accept that there is politics in local government—that there are Liberal, Labor, Greens and Nationals WA councillors. Even declaring yourself an Independent is politics. We want to make sure that there are good systems in place when there is dysfunction; that is the critical issue.

The member for North West Central asked about the cost of optional preferential voting. A similar voting system is used in state and federal elections. We are going to save money because it will enable backfilling. The member for North West Central asked what will happen if there is no-one or if someone in line does not put up their hand. I want to be very clear: if there is no candidate available to backfill a vacancy, an extraordinary election will occur. The current process will kick in. There was also an issue about the election of mayors. I always believe that ratepayers get it right. I have heard some criticism that this will encourage factionalism. I reject that. We can point to past examples in which different groups on a council have made deals over the position of mayor. They said, “Right, I’ll get mayor now; you get it in four years’ time.” Mayors start to worry about appeasing councillors rather than thinking about their ratepayers.

The issue of wards was noted by a couple of opposition members. We have seen a consistent trend away from wards. I will give an example. The Shire of Kulin has four wards. The shire’s east ward has one councillor for 48 electors. I do not think anyone would argue that that is particularly democratic. It is clear under the act that councillors represent everyone in their community. In fact, there is a concern that in the remaining tier 3 and 4 councils, there can be the extraordinary circumstance of a councillor being elected by very few people. I note that out of 95 councils in bands 3 and 4, only 11 still have wards.

Communication agreements were raised. There are some conspiracy theories out there. I make very clear that these reforms will not alter the scope of information to which council members are entitled. Section 5.92(1) of the act states —

A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

I assure the member for North West Central that that subsection will not be changed by the bill. That makes very clear what a councillor can access in terms of information.

I think I have covered most of the key issues. We will discuss them in detail.

I just want to quickly acknowledge and thank people for this significant work. These reforms, which are the biggest change in 25 years, have undergone an exhaustive process. I thank the agency, particularly Trish Edgar, Ethan Redshaw and Cameron Taylor. I want to thank the sector. I deeply respect Nick Sloan, Tony Brown and president Karen Chappel of the Western Australian Local Government Association. I acknowledge all the contributions from Local Government Professionals WA and, of course, the broader community, who made incredible submissions and engaged in a range of community consultation. There were more than 200 submissions, which I personally read. In fact, I had a huge stack of files in my office that my staff and I went through. I thank the community. On a personal note, I thank my own office, because this has been a big agenda—Claire Comrie, my chief of staff; Sam McLeod, a brilliant local government adviser; my former local government adviser Joslin Colli; and another great local government adviser, Matthew O’Keeffe. The reforms that we are seeing today are a result of the substantial and incredible work that has been delivered. Of course, tranche 2 will bring in the local government inspector and sweeping powers in regard to dysfunction.

Question put and passed.

Bill read a second time.

[Leave denied to proceed forthwith to third reading.]

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Ms M. BEARD: How much work still needs to be undertaken by the Department of Local Government, Sport and Cultural Industries to prepare for the enactment of the Local Government Amendment Bill 2023? Will it be able to deliver to the deadline of 23 October or earlier?

Mr J.N. CAREY: That is a good question. A substantial part is for the local governments that are being impacted by the reforms. Last year, I wrote to all the local governments that would be impacted—around 50 of them. They have all undertaken the substantial work already. We said that there were two pathways: a voluntary pathway and a reform pathway. The majority of local governments seriously engaged with this process. To give an example, my favourite council, the Shire of Bruce Rock, undertook, in accordance with the legislation, six-week consultations. They are all now coming back in. The Local Government Advisory Board is making recommendations to me and I am approving them. The board, as the member knows, provides advice to me and I consider that advice. In addition, three sets of regulations will be required. Local governments will be undertaking the required reforms with regard to boundary reviews and the transition to new numbers. The regulations are the Local Government (Constitution) Regulations, Local Government (Administration) Regulations and Local Government (Elections) Regulations. There will be changes to those. Obviously, the bill also provides heads of power to other regulations, but with regard to elections, we are very confident that we will meet the required time lines for this year.

Ms M. BEARD: What additional resources will need to be put in place before that?

Mr J.N. CAREY: We put in additional resources for the process of providing support to the Local Government Advisory Board, and that was important. We have received good feedback from local governments on that. We are on track and are very confident about the Governor’s orders and regulations that will be required.

Ms M.J. DAVIES: Just to follow up, the minister mentioned the different regulations. Sorry; I might have missed this in his very fulsome explanation, but when are they due to be completed and published?

Mr J.N. CAREY: Obviously, the election regulations are the priority and they will be completed by June. Other regulations will be completed later. We are still consulting with the Western Australian Local Government Association on standing orders and communication agreements. I want to get that right, so we have a working party for that. Some of those regulations will be settled once we have completed the consultation, but a lot has already been undertaken.

Ms M.J. DAVIES: Is there an end date for the consultations? Is the time line known to the sector and the public?

Mr J.N. CAREY: We have established a working group and the consultation is on both key issues, as identified. Elections will be done by June, which is critical, and we will be working through the others over the next six months. In addition, we are also still consulting with WALGA on tranche 2. With regard to the creation of the position of local government inspector, for example, we are testing how that will effectively operate.

Ms M.J. DAVIES: We expect to see the priority election regulations in June. The admin regulations and the other one, which I missed, will be completed by the end of this year—is that correct?

Mr J.N. CAREY: It is anticipated that they will be completed by the end of the year, but I will say that it will be based on consultation with WALGA. I am genuine and sincere about wanting to get these reforms right. I know standing orders seem simplistic, but as the member knows, they can actually be highly contested by different local governments and WALGA might also take a position. We are consulting both WALGA and some individual members.

Clause put and passed.

Clauses 3 to 5 put and passed.

Clause 6: Section 1.4A inserted —

Ms M. BEARD: What sorts of restrictions or circumstances would apply during the caretaker period for local government elections? Is it just elections and by-elections, or are there other circumstances in which a caretaker period could be put in place?

Mr J.N. CAREY: Just to clarify, it is only for ordinary elections, not by-elections, because councils still have to function.

Clause put and passed.

Clause 7 put and passed.

Clause 8: Section 2.2A inserted —

Ms M. BEARD: Proposed section 2.2A relates to regulations that may provide that a district cannot be divided into wards. Does the minister anticipate that such regulations might need to be used as a big stick for councils that refuse to comply with the new legislation, or will there be flexibility?

Mr J.N. CAREY: I have been very clear on the public record on this. As I said, there are two pathways: one is voluntary and one is reform. With the reform pathway, it is a spill, which means that at this election all positions will become vacant and the election will occur with the new structure in place. Some—not many—decided to go for the spill because they saw it as being a better way of reform. Some, such as Kalgoorlie, could not agree. I was very clear and up-front that cases in which there is non-agreement would also constitute a spill. On the issue of wards, I am not aware of many that are not. Most of them are going down the voluntary pathway.

Ms M. BEARD: Just for my own understanding, with a spill, all positions on a council will become vacant. In the past there would have been a crossover, so there would not have been an entirely new council at every election. There would be a crossover during which there would be experienced councillors still sitting on the council. Is that something that has been considered?

Mr J.N. CAREY: I will say two things on that. There are spills from time to time; I am thinking of the City of Perth whenever there is an inquiry. The member will also be aware that we currently have a commissioner in Augusta. It is likely that we would see the re-election of some existing members. In respect of Kalgoorlie, it could not arrive at a decision. Some councils have made a very deliberate decision to spill their local governments because they feel that that is the right course of action. To be frank, and as the member will be aware, some smaller local governments are struggling to get councillors, so I suspect that in some cases we will see almost the same make-up because it will be the same people. I am sad about that—I want people to come forth—but the reality is that we will see the same people standing because no-one else is prepared to stand up.

Ms M.J. DAVIES: Who will bear the cost of the bill to run an election? Will it be the council? Has that been factored in to provide support for the councils that go down that pathway?

Mr J.N. CAREY: Just to be clear about a couple of things, local government elections are always paid for by the local government. Ultimately, I do not think the cost is a significant burden, whether it is an election for half the councillors or all the councillors. But because we are cognisant of making a change to optional preferential voting, we are doing significant work to provide support to local government through the agency about that transition. Whether or not a council has been spilled, clearly, we have to provide education and support across the whole sector. Also, the Western Australian Electoral Commission has written to local governments outlining the new process. I want to assure the member that significant work is being done to educate and engage local governments.

Debate interrupted, pursuant to standing orders.

[Continued on page 1470.]

The DEPUTY SPEAKER: Private members' business. The member for Moore.

Mr R.S. LOVE: It is members' statements, I think, actually.

The DEPUTY SPEAKER: Yes, members' statements. You are correct.

Mr R.S. LOVE: Very good. Thank you. That was not part of my statement!

The DEPUTY SPEAKER: We will restart the clock for you. I am not going to rob you of your time.