WATER RESOURCES LEGISLATION AMENDMENT BILL 2006

Third Reading

HON LJILJANNA RAVLICH (East Metropolitan - Minister for Local Government) [2.07 pm]: I move -

> That the bill be now read a third time.

HON BARRY HOUSE (South West) [2.08 pm]: I want to make a couple of comments at the third reading mainly because I was unable to be here on Tuesday during the concluding stages of the committee debate. I certainly do not wish to reflect on any decisions that the house has made because I know that would be unparliamentary. I do wish to make a few comments on a couple of issues that came up on Tuesday. After reading the *Hansard*, I think they need to be taken into account when this legislation is finalised in the Parliament and as we proceed to other things when considering water resource management in the state.

The first item relates to the amendment to clause 191 standing in my name. I thank Hon Norman Moore for moving that amendment on my behalf. This amendment came from the Standing Committee on Public Administration and was accepted by the house with very little debate. It received universal agreement, and I am pleased about that. I wish to make a brief comment about that amendment. As I said, it was an amendment to clause 191 and related to annual reports. It is worth dwelling on the actual clause. Proposed new section 80(1) states -

> The Minister may delete from -
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> (a) a copy of a report under the *Financial Administration and Audit Act 1985* (and any accompanying document) that is to be laid before a House of Parliament or made public; or
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> (b) any other document of the Department that is to be, or might be, made public,
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> information that is of a commercially sensitive nature, despite section 69 of the *Financial Administration and Audit Act 1985* or an obligation, however arising, to make the document public, -

It goes on in the original clause -

> except where the document is to be laid before either House of Parliament by its own order.

The words "except where the document is to be laid before either House of Parliament by its own order" were deleted by the amendment. I invite members, if they have not already done so, to look at the report that the Standing Committee on Public Administration put together on this issue. Every now and again, there is a tendency for legislation to appear in Parliament that states the obvious to Parliament. That is not necessary, because Parliament has rights and powers at its disposal, and any member in this house, or in the other house, for that matter, has the ability and the right to seek information, regardless of anything that is stated in a piece of legislation. In fact, I think that some sections of the public service like to spell it out so that there may be a way around it in certain instances. That is not the right way to go in having an open, accountable system of Parliament whereby any information can be obtained by any member on behalf of the public. That is our job. If any information pertaining to any aspects of the Department of Water's operations is of a commercially sensitive nature in any way, the Parliament is entitled to know, and a member is entitled to demand that. It is totally unnecessary for the legislation to state that. The Parliament as of right has that ability. I am pleased to say that the Standing Committee on Public Administration, by drawing attention to that matter, was able to achieve that change. In some people's minds it may be a minor change, but it is a very important change in upholding the position of this Parliament.

Another issue attracted some debate on Tuesday, and that was the amendment moved by Hon Paul Llewellyn at clause 76. That amendment inserted the words -

> Without limiting the generality of paragraph (h) of subsection (1) the fees referred to in that paragraph may be set by reference to the volume of water allocated under a licence.

Quite frankly, I was very surprised that the government agreed to that amendment and that it was passed. I have noted the concerns raised by the Leader of the Opposition, and they are very valid concerns. Although I will not criticise the amendment, and it has its place, in many ways it is out of place in this legislation. This legislation is concerned with the administrative governance structures for water management in this state. The issues surrounding resource management will come later in other legislation. There are three other bills to come before this Parliament to complete the legislative process and the legislative picture involving water resource management in this state. Those bills will appear, we are told, towards the end of this year, at least in draft form. Members might recall that, as Chairman of the Standing Committee on Public Administration, just a couple of weeks ago I tabled a report recommending that those bills, either in draft form or as soon as they are tabled in Parliament, be referred to the Standing Committee on Public Administration for analysis and some consultation first. From a conversation I have had with the Minister for Water Resources, I believe he is receptive to that

idea. I certainly hope he is, because it will help the legislative process and the consultative process. However, there is still a long way to go. Those three bills are pretty major pieces of legislation, and it will take some time to put them together, as I am sure the parliamentary draftsman and the departments are finding already. The community consultation process will take some time, as will the legislative process. To use this bill as an example, it was introduced to this house a year or so ago, and it will complete its passage today. Therefore, there is a lot of water to go under the bridge, if members will excuse the pun.

In addition to that, we know that under the process, a series of statutory water management plans also must be put together. The work has begun on those and they are starting to appear in draft form. However, there are another two or three years left in that process alone before we will be able to see the full picture of water resource management in this state. That will involve the proclamation of some areas that are not yet proclaimed. A regulation was tabled in this house a couple of weeks ago relating to the Whicher catchment area. That is one of the additional areas that will come under the water management process. Previously, in that area only selected areas were proclaimed; that is, the Margaret River catchment area and the underground reserves. I know that several other areas in the state still have not been brought under the banner. What I am trying to say is that there is a jigsaw of water resource management that is only about a quarter complete at this stage. This piece of legislation is perhaps that one-quarter. I am a bit concerned that we are jumping the gun. We are trying to insert into this legislation an aspect of water management that does not belong there; it is out of place. It will more likely find a home in a subsequent piece of legislation.

Of course, the picture will not be complete until the whole relationship with the National Water Initiative is bedded down and thrashed out, and it will not be complete until the Economic Regulation Authority becomes involved and does its job in terms of a proper assessment of all the costs and management structures associated with different aspects of water management. Those matters will not be clear to everybody for, I suggest, a minimum of two years, and possibly up to five years. That relates to another issue that is on the table of this house; that is, a disallowance motion against some regulations that was moved by the Joint Standing Committee on Delegated Legislation, by Hon Paul Llewellyn on behalf of the Greens (WA) and by me on behalf of the opposition. I know that that has raised many concerns in many quarters, and it will be debated in due course.

The issue of water licensing and fees is a very important one. My concern is that the state government has jumped into the whole issue far too quickly and unnecessarily, and has done so on a premise that is flawed. This brings us back to Hon Paul Llewellyn’s amendment. It sets down, as the main reference for the pricing of water, the volume of water allocated under a licence. I do not dispute that that needs to be taken into account when considering licensing and fees. However, looking at the whole picture, other factors in water usage need to be considered; for example, the degree or extent of allocation of a catchment or aquifer. If it is underallocated, the issues are not as critical, but if it is overallocated, like many areas in the Murray-Darling basin, this has led to strong regulatory intervention from government, which is necessary in those parts of the world. If a water source is seriously underallocated, that degree of regulation is not needed, although a structure is needed, by all means. It is also necessary to consider what environmental flows are required from a catchment or water source. We have heard many stories about how the lower Ord River commands a very significant percentage of the water allocation from Lake Argyle. Many people have concerns about that, because it maintains an environment that did not exist before the dam was built. The other aspect of that is, if an environmental flow is determined, I presume it would be a benefit to the public at large, and therefore the public, not an individual user of that water source, should pay for it.

Another factor for consideration is who provided the infrastructure to tap a water source. Whether it be a dam or a bore, there would have been a significant cost. Sometimes that cost is borne by the government, either directly or through an individual agency or water board. Sometimes the cost is borne by a private company, such as a mining company, a private individual, or a farming partnership. There is a need to consider who has provided the infrastructure for accessing a water source. If it is a self-supply situation, it should be given consideration different from that applicable to a situation in which infrastructure is provided by the government.

A proper analysis of this structure needs to take into account the purposes for which the water will be used, and the quality of the water. A large amount of water used by industry, particularly the mining industry, is non-potable. It is fair and reasonable to assess that on a different basis from potable water. For instance, if I can evoke the Yarragadee aquifer again, the water quality from the Yarragadee is outstanding, but we know that the water quality from other aquifers around the state is variable. In the area of surface catchment, we all know about the Wellington Dam. The water quality in that dam has been compromised by salinity over the years, and therefore it needs to be considered differently from other sources. We should also take into account whether any of the water has a secondary application - is it recycled or reused? It then becomes a secondary source of water. If a catchment maintains its water through reuse or recycling, that should impact on the allocation and the costing arrangements for the licensing.

Each catchment or aquifer differs in complexity. There are large variations in the water quality and quantity, the difficulty of extraction and the cost of damming the water supply or accessing it through a bore. That should be taken into account. One size does not fit all. The simple volume of water used is a poor guide to the fair costs to individuals of the extraction of that water. We should also consider whether the water is used for a public good, and, if it is used in the agriculture or horticulture industry, who the water user actually is. The grower, farmer or horticulturalist uses the water in the sense that he dams it or extracts it and then pumps it to an orchard, market garden or vineyard. However, those people are not the end consumers; the end consumers are members of the general public who consume the meat, vegetables and wine on their dinner tables in cities and towns across the nation. If we are to be fair and reasonable, they should be considered the consumers of the water, not the farmers who use it as part of their production process.

The differing complexity of aquifers and catchments necessitates different management structures at local levels operating in different ways. Sometimes these structures operate extremely efficiently through a cooperative arrangement or some sort of voluntary agreement. There is no reason for not taking that into account as well. If such bodies manage an area very efficiently and bring down the costs, they should get the benefits. Once again, one size does not fit all. A good example is the Harvey irrigation scheme, which the Minister for Agriculture and Food knows well. That scheme operates extremely efficiently. The users, or people who have the water allocated to them in the Harvey scheme, were brave enough to put their money where their mouths are and take on the ownership and management of the scheme 10 years ago during the time of the Court coalition government. They have done an outstanding job in local management ever since. With some state and federal government assistance, the users have done a great job for the greater good by sealing off many irrigation channels and releasing about 17 gigalitres into the integrated water scheme. Nevertheless, they have taken the initiative themselves at the farm level and done it. They are responsible for a lot of their own administration and management. As a result, much of that is on a voluntary basis, much is done through local, small scale efficient management; therefore, they should get the benefits of that. To charge those people on a volumetric basis would be grossly unfair and not reflect the true cost of the resource. I suggest it will probably destroy the industry in that region.

During the Committee of the Whole, the Leader of the Opposition referred also to the Ord scheme. If the Ord scheme were to be assessed and costed purely on a volumetric basis, we might as well write that off now because it would not work. There must be a horses for courses approach on this issue that takes into account all the factors rather than purely the volume of water used. Hon Paul Llewellyn has moved to disallow the regulations under the Rights in Water and Irrigation Amendment Regulations 2007 and the Liberal Party agrees with that motion and has also moved a motion to that effect. It will be debated in a couple of weeks' time. However, I suspect that we agree for slightly different reasons. I am a little concerned that by his amendment, Hon Paul Llewellyn is trying to gain acceptance of a purely volumetric charge for water across the state and that will be just as bad as the government's model, possibly worse. I am aware that Hon Paul Llewellyn has done some modelling of the costs associated with a purely volumetric charge. I am sorry he did not table that analysis of costs when he moved his amendment. It would have been a great illustration of exactly what the outcome of all this may well be. When we embrace legislation such as this we need to know what its implementation will mean in real terms. I believe that, down the line, water costs could have some serious consequences for the state and some of the large irrigators, particularly some of the mining companies on which there is no need at all to impose those costs. It is not too late if Hon Paul Llewellyn is listening to this debate. He is out of the chamber at the moment on parliamentary business, but if he were to rush back in now I am sure he would have time before the third reading is adopted to table those figures if he has them handy. Nonetheless, I am saying that we need to know the implications of accepting such an amendment. I am forever an optimist: who knows? It may go back to the Legislative Assembly and the government may, on reflection, change its mind and decide it does not like Hon Paul Llewellyn's amendment after all and send it back here where we might have another look at it. It is not that I can accurately predict these things, but we can live in hope.

I wanted to make those comments in the third reading debate that embrace some of the aspects of this Water Resources Legislation Amendment Bill. This bill is the first in a series of four pieces of legislation to complete the water management structure in Western Australia. It is in line with our obligations under the National Water Initiative and with the state's obligation to manage water not only efficiently and economically but also fairly for water users, whether they be primary water users such as farmers or the ultimate water users, the public, the people who are the consumers. If it is a public benefit, then a fair allocation of costs must become part of the equation and they should be shared by the public at large.

That was behind my thinking when I said that the whole picture is not complete yet. We are a little premature in adopting at this stage some of the descriptive ways of allocating water charges and fees in this bill. It is not the right place for them. It will certainly be a very important part of future legislation and regulations that determine how these things are implemented. This bill sets up the basic administrative structure, which is centred on the

creation of the Department of Water, which has been operating for some time. The other aspects of water management and water control will link to this legislation.

I am glad I had the opportunity to make a few comments on the third reading. I hope that someone may have been listening or will at least read *Hansard* over the next few days so that they can take into account some of those factors.

Question put and passed.

Bill read a third time and passed.