

LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL 2019

Introduction and First Reading

Bill introduced, on motion by **Mr D.A. Templeman (Minister for Local Government)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR D.A. TEMPLEMAN (Mandurah — Minister for Local Government) [2.55 pm]: I move —

That the bill be now read a second time.

It gives me great pleasure to deliver on an important McGowan government election commitment with the introduction of the Local Government Legislation Amendment Bill 2019. This is the third major piece of legislation bringing reforms to the local government sector since the McGowan government was elected. This bill complements the transfer of auditing oversight to the Office of the Auditor General and the introduction of the power to suspend individual council members when their behaviour is interfering with the ability of the local government to perform its function. The introduction of this legislation again illustrates our commitment to ensuring the local government sector has the tools to face the challenges of a modern world. To do that we need effective, transparent and enabling legislation.

Local government is an important tier of government and makes a significant contribution to the Western Australian way of life. Local government is a major provider of government services and infrastructure, and supports economic development, community vibrancy and inclusiveness. The Local Government Act 1995, which provides the framework within which local governments operate, is an outdated piece of legislation. Although there have been amendments to the act since it was introduced in 1995, there has not been substantial reform to reflect the changing expectations of the community or the advances in technology. We need local governments to be responsive to the needs of their communities.

The reforms in this bill aim to deliver on the principles of governance, transparency and accountability. The bill introduces measures to ensure universal training, a mandatory code of conduct, chief executive officer employment and performance management standards, a revised gifts framework, and improved reporting to the community.

Training: The role of a council member is diverse. To ensure that council members have the necessary understanding to carry out their role, universal training for candidates and council members is being introduced. Candidates will be required to complete an online induction prior to nominating for election. This initiative is crucial to ensuring that candidates are fully aware of what is involved in being an elected member and the rules around campaigning. Following election, council members will be required to complete five modules of training within the first 12 months of being in office. The foundation units, which will all be available online, will cover a range of topics that will equip council members with the basic skills and knowledge to carry out their duties.

The final element of universal training is the requirement for councils to develop an ongoing professional development training policy. This will enable local governments to tailor training to strengthen their council members' capacity to perform their role. This will be based on the skills and knowledge of their councillors, the needs of the district, and gaps in expertise of the council as a whole.

No penalties for failure to complete the training will be set at this time. Instead, we want to encourage cultural change by developing an environment that fosters continual improvement. There will, however, be a requirement for councils to report annually on the training completed by all councillors.

Code of conduct: The introduction of a mandatory code of conduct is aimed at clearly outlining the expected behaviour of council members. Feedback received during the consultation phase of the review of the act highlighted that the community expects the same standards of behaviour for all council members and that council members need to be accountable for their behaviour. The mandatory code of conduct, which will also apply to candidates, will include: overarching general principles to guide the behaviour, such as the requirement to act ethically and honestly; specific requirements relating to the behaviour of council members that are to be dealt with at a local level; and rules of conduct, breaches of which will be considered by the standards panel.

Following challenges experienced by candidates in the 2017 local government elections—specifically, alleged bullying and trolling on social media—the extension of the code of conduct to candidates will go some way to improving the behaviour of candidates during the election campaign. Alleged breaches of the rules of conduct during the election campaign period will be progressed when the candidate is elected.

In an effort to improve transparency, accountability and efficiency of the minor breach system, amendments are being made to the standards panel to limit the time period for complaints to be lodged from two years to six months. The panel will also be able to request that the two parties to a complaint undertake mediation. The willingness and

success of the mediation will form part of the panel’s consideration on a sanction, if any, to be imposed. The panel will also have the ability to order a council member to reimburse the local government for the cost of the panel proceedings if an adverse finding has been made. Confidentiality will also apply, not just during an election period, as is currently the case, but during the full process of consideration and finding of a breach. This will provide greater protection of reputation when no breach is found, and it should reduce the number of complaints of detriment caused through adverse publicity.

Standards for chief executive officer recruitment: The role of the CEO is an important position in local government. To provide council members with a best practice framework, the bill introduces the requirement for the adoption of minimum standards for the recruitment, selection, performance review and dismissal of a CEO. These will be developed with input from the Public Sector Commission. To provide clarity around filling a temporary CEO vacancy, local governments will also be required to develop a policy that outlines the process for this.

Gifts: A key initiative of this bill is the introduction of a revised gift framework. Council members are key decision-makers in their district and the community expects that decisions be free from improper influence. The focus of the provisions in the bill are twofold: addressing the ability of gifts to influence decision-making; and increasing transparency and accountability to members of the community. The new framework will require council members and CEOs to declare any gift over \$300 that is received in the ordinary course of their duties. All gifts must be disclosed within 10 days of receipt and published on the online gift register within 10 days. For the purposes of simplicity and clarity, the definition of “gift” has also been revised to include contributions to travel. The receipt of any gift over the threshold, including gifts received in other than an official capacity, will prohibit the elected member from voting on matters before council that concern the donor of the gift for the period of their term unless approval is given by the council, for gifts up to \$1 000, or the minister, or the gift relates to attendance at an event as a representative of the council and is in accordance with the attendance at events policy. A similar provision relates to advice provided by the CEO.

To improve transparency with respect to councillors and CEOs attending events such as conferences, concerts and functions, local governments will be required to adopt a policy dealing with attendance at events as a representative of council. A gift of a ticket to, or a gift that otherwise relates to a person’s attendance at, an event that is in accordance with the policy, will be exempted from the conflict of interest provisions. The council member or CEO will still be required to publish these gifts online; however, they will not be required to disclose the interest if the donor has a matter before council and will be able to participate in the decision-making or the provision of advice for the CEO. Tickets given directly to a council member or CEO will still result in an interest.

Transparency: With significant advances in technology since the act was first introduced in 1995, the bill enables local governments to be more efficient and flexible. The reforms also ensure that the community and other stakeholders have greater access to information held by the local government. Public notices that traditionally have been required to be placed in a newspaper that circulates throughout the district and on noticeboards in the town will be replaced, with regulations prescribing the requirements for public notices. This will increase flexibility and ensure the legislation is future-proofed to account for any changes in technology. Initially, the regulations will require that a local public notice must be published on the local government’s official website, and provide other options such as in newspapers, on social media and email distribution lists and by any other means that suit its district.

To increase transparency, the bill requires local governments to publish more information on their official websites, including a map showing the district and ward boundaries, the annual budget, local laws, plans for the future and minutes and agendas. Information that is currently only required to be available in the local government’s office for inspection will be published on the local government’s official website.

Red-tape reduction: Local governments administer and enforce many pieces of legislation through the appointment of authorised persons. Currently, authorised persons are appointed under different statutes in different ways, whether it be by the council or the CEO. This bill standardises the provisions for the appointment of authorised officers across other legislation, including the Dog Act, Cat Act and Caravan Parks and Camping Grounds Act. I hope that in future we will be able to expand these provisions to legislation that falls outside my local government portfolio.

Conclusion: The McGowan government made a commitment to review the legislation and introduce amendments that meet the expectations of the local government sector and the community. This bill results from the first phase of that consultation. The consultation undertaken with the community and the local government sector has been extensive. It is my view that local government plays a critical role in our communities, and it is one of the reasons why, as a government, we committed to rebuilding the relationship with the sector. This commitment to the relationship was reflected in the re-establishment of the formal partnership agreement. This bill meets the principles and conditions of that agreement, and has the support of the Western Australian Local Government Association and Local Government Professionals Australia WA. This is another important step in ensuring that

the legislation governing local governments provides a framework that allows them to be the best they can be. I commend the bill to the house.

Debate adjourned, on motion by **Ms L. Mettam**.