

WATER SERVICES BILL 2011

Introduction and First Reading

Bill introduced, on motion by **Mr W.R. Marmion (Minister for Water)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR W.R. MARMION (Nedlands — Minister for Water) [11.20 am]: I move —

That the bill be now read a second time.

The purpose of the Water Services Bill 2011 is to consolidate and modernise existing water service legislation, which will make it clearer and easier to use, streamline regulatory processes and address gaps in current legislation. The bill will improve the ability of licensees to provide high-quality and efficient water services to their customers. At present, legislation dealing with the regulation of water services is found in 10 separate acts. Many provisions in these acts are duplicated, convoluted and out of date, and reform is necessary to bring them in line with the significant changes that have occurred in the water services industry over the last 15 or 20 years. The complex nature of the current legislative regime has resulted in high costs associated with administration and compliance. Reform of the legislation is urgently needed and is supported by the water services industry, customers and regulators.

The regulatory process will be streamlined under the bill and all water service providers will be given the same powers to provide services as those of the Water Corporation. Under the present legislation, it is necessary to grant powers to service providers entering the market through the making of extension of enactments regulations, made under the Water Services Licensing Act 1995, which extend and amend powers and obligations set out in other water service legislation. This is a drawn-out process that necessitates the creation of regulations to confer some or all of the powers of the corporation, as required. This excessive red tape has resulted in an anticompetitive environment, as it creates an unnecessary and expensive hurdle to new service providers wishing to enter the market.

Part 2 of the bill will replace the provisions dealing with the licensing of water service providers by the Economic Regulation Authority, as presently set out in the Water Services Licensing Act 1995. Part 2 of the bill will also give the minister the ability to make water industry codes. At present, the minister's policy setting role is being hampered by a lack of enabling statutory instruments, and the Economic Regulation Authority has the sole jurisdiction to set water licensing conditions. The capacity to make water industry codes provided by the bill will enable the minister to set the policy and technical standards to be applied to the industry, which will be enforced by the Economic Regulation Authority. The codes provide a flexible new regulatory tool that will enable the achievement of social, environmental and economic objectives in the water sector. This addresses a key gap in the current arrangements whereby the minister has only a limited capacity to provide policy guidance to the water services industry or the Economic Regulation Authority.

This bill will introduce new customer protection mechanisms to the water service industry. The first of these measures, set out in part 3 of the bill, is the capacity to appoint a supplier of last resort. Under the bill, the Economic Regulation Authority will have the capacity to appoint a supplier of last resort who will be required to provide a water service, should the existing provider no longer be capable of providing it. This scheme will ensure the continued provision of safe and reliable water services to the community should a licensee unexpectedly exit the market or prove unable to continue to provide a service.

Another consumer protection mechanism that is to be established under the bill is the establishment of a water services Ombudsman scheme, which will be supported by the office of the state Ombudsman. This is set out in part 4. The scheme will ensure that consumer complaints are independently investigated and resolved. The Department of Water currently performs a consumer complaints function. However, this is deficient as the department has no ability to ensure that the recommendations given to service providers are complied with. The Ombudsman's service will be provided as an adjunct to the existing Energy Ombudsman of Western Australia, which provides a complaints investigation service for energy customers.

Part 5 of the bill will consolidate and replace provisions dealing with the delivery of water services contained in several other acts. These include the Country Areas Water Supply Act 1947; the Metropolitan Water Authority Act 1982; the Metropolitan Water Supply, Sewerage and Drainage Act 1909; the Rights in Water and Irrigation Act 1914; the Water Agencies (Powers) Act 1984; the Land Drainage Act 1925; and the Country Towns Sewerage Act 1948. The provisions deal with general matters applying to all types of services such as the capacity to interrupt services, infrastructure contributions, the protection of works, and some provisions that relate specifically to water supply, sewerage or drainage services.

Part 6 of the bill consolidates and replaces the provisions dealing with powers in relation to the construction of water service works, and part 7 will consolidate and replace existing provisions relating to interests in land. Part 8 deals with powers to enter land for regulatory purposes and the provision of services. These provisions are presently contained in the Water Agencies (Powers) Act 1984.

Part 9 of the bill sets out how legal proceedings can be undertaken to prosecute offences. Part 10 deals with administrative matters. These include the functions of the Economic Regulation Authority under an act, primarily the administration of the water services licensing regime, and the appointment of inspectors and compliance officers.

Part 11 of the bill covers miscellaneous matters including, importantly, the making of regulations to set charges for water services. This part also reproduces limitation of liability for certain actions by water service providers and officials in respect of the provision of water services and other specified matters. This continues provisions presently contained in the Water Agencies (Powers) Act 1984.

The regulation-making provisions of the bill enable regulations to be made in order to displace provisions of the Commonwealth Corporations Act 2001 and the Personal Property Securities Act 2009. The particular provisions that are envisaged to be displaced are those relating to the seizure of property. The aim of these provisions is to ensure that the authority is not prevented by someone with a property interest in the work seeking an injunction from the transfer or use of such works assets, or undertaking actions concerning those assets. The actions that could otherwise be prevented include appointing a supplier of last resort. There is a requirement under the state and commonwealth legislation agreement that parties are to be notified when proposed legislation contains such a displacement provision. This notification has been given.

The Water Services Bill 2011 will deliver much needed reforms to the water services industry in Western Australia, increasing the efficiency and quality of service provision and offering greater protection to customers.

I commend the bill to the house.

Debate adjourned, on motion by **Mr D.A. Templeman**.