

**INTEGRITY (LOBBYISTS) BILL 2014**

*Introduction and First Reading*

Bill introduced, on motion by **Mr C.J. Barnett (Premier)**, and read a first time.

Explanatory memorandum presented by the Premier.

*Second Reading*

**MR C.J. BARNETT (Cottesloe — Premier)** [12.22 pm]: I move —

That the bill be now read a second time.

It has been a constant priority of this government to move to restore integrity and to promote fair, open and accountable government. The Integrity (Lobbyists) Bill 2011 was introduced into the Legislative Assembly of the thirty-eighth Parliament on 9 September 2011. Following an extensive consideration in detail and the adoption of several amendments, the bill was passed by the lower house on 19 September 2012. Subsequently, the bill was introduced into the Legislative Council and reached the second reading stage before Parliament was prorogued. This bill incorporates the amendments made in the Legislative Assembly of the thirty-eighth Parliament.

This government recognises that lobbying is a legitimate part of the political process. This bill seeks to strike the right balance of allowing communications between lobbyists and government representatives on behalf of clients, while at the same time ensuring that all parties to those communications remain appropriately accountable and abide by rigorous standards of conduct. This will ensure that the people of Western Australia have confidence in how their government is conducting its business. Therefore, this bill will create a statutory framework for the state's current Register of Lobbyists, which was administratively established within the Department of the Premier and Cabinet under the Contact with Lobbyists Code in 2007. In 2008, responsibility for administering the Contact with Lobbyists Code was given to the Public Sector Commission when the agency was established. Since 2007, all state jurisdictions in Australia and the commonwealth have followed Western Australia's lead and established lobbyist registers modelled on ours. This bill takes the next step, to strengthen the current administrative framework and enhance its transparency and accountability mechanisms.

In 2010, the public sector reforms spearheaded by this government led to the establishment of the Public Sector Commissioner as a statutory officer independently accountable to this Parliament. Under this bill, the Public Sector Commissioner will continue to be responsible for administering the Register of Lobbyists, which will ensure the independence of the lobbyist oversight process from the executive arm of government. The bill defines "lobbying" as communicating with a government representative for the purposes of influencing, whether directly or indirectly, state government decision-making. It prohibits individuals or firms from engaging in lobbying on behalf of third parties unless they have been accepted onto the register by the Public Sector Commissioner and therefore accredited as registered lobbyists to government. The bill makes it an offence for individuals or firms to lobby government on behalf of third parties without being registered. Doing so may attract a fine of up to \$10 000.

As the bill prescribes a fine for lobbying while unregistered, it also provides examples of what is not lobbying. This includes communicating with ministers or parliamentary secretaries in their capacity as members of Parliament, and communicating with a government representative about personal, family, or household affairs that are not related to any business or commercial activity. The transparency imperatives underpinning the bill do not require all types of interest groups, non-profit organisations, in-house lawyers, or businesses performing a technical or professional occupation such as lawyers, doctors, architects or engineers to be regulated. Even organisations that represent the interests of their members like trade unions, employer groups or occupational bodies are not required to be registered. Sufficient transparency already exists as to whose interests such bodies are representing, or, in the case of professional service providers, any lobbying they do is incidental to their core business. The bill does, however, apply to a wide range of government representatives. All ministers, parliamentary secretaries and ministerial officers; all persons employed or contracted by a public sector agency; and all officers who are part of the public sector, including chief executive officers, fall within its ambit. The bill does not require them to communicate with all registered lobbyists who seek to influence them, but under their applicable codes of conduct, they will be required to confirm that a lobbyist is registered before allowing a communication to occur.

The Public Sector Commissioner will be responsible for maintaining and publishing the Register of Lobbyists and will continue to record the names of lobbyists' clients to ensure that transparency is maintained. It is anticipated that the current operation of the register will continue, with some minor changes to registration details and procedures. The commissioner will continue to be responsible for deciding registration applications from lobbyists. It is expected that this will be determined through an applicant's statutory declaration as to past

conduct and criminal convictions, and registration will be based on a fit-and-proper test. To build public confidence in government decision-making and the conduct of lobbyists, the bill restricts senior government employees, members of this Parliament, Western Australian senators and members of the House of Representatives from seeking to be registered for one year after ceasing to hold public office. This will reduce their capacity to gain inappropriate personal advantage from information acquired in areas for which they previously had some official responsibility. The bill also enables the regulations to prescribe other offices or positions to which the same restrictions for registration would apply. To increase public trust in the Register of Lobbyists, it will be an offence to supply false or misleading information to the Public Sector Commissioner, punishable by a fine of up to \$10 000. The bill will also require the commissioner to make the information in the register publicly available free of charge so this will continue the high level of transparency that currently exists in the regulation of lobbyists. In addition, the bill enables the Public Sector Commissioner to establish a code of conduct for registered lobbyists, after relevant consultation with appropriate stakeholders. Given the commissioner's role as an independent and authoritative source of advice on ethics and integrity matters for the public sector, it is appropriate for him to develop standards of ethical behaviour for lobbyists. The bill also allows the commissioner to amend the code of conduct in response to emerging issues provided that consultation is undertaken.

Further, the bill prohibits agreements between registered lobbyists and their clients for the payment of a success fee or other reward that is contingent upon achieving a particular outcome. Any contractual clause to this effect will be rendered void and unenforceable, and the Treasurer will have the power to take legal action on behalf of the state to recover unlawfully paid success fees. The proposed ban of success fees and the penalty for supplying false or misleading information will benefit both the community and the consultant lobbying industry by increasing public confidence in government decision-making and the ethical conduct of lobbyists.

Finally, the Public Sector Commissioner currently has the discretion to refuse or cancel a lobbyist's registration and this will continue, subject to the general rules of procedural fairness. For example, if a registered lobbyist were to breach the code of conduct or provide false or misleading information when applying for registration, their application could be refused or their registration suspended or even cancelled. Although a decision to refuse or cancel a registration will affect a lobbyist's livelihood, it is important that the commissioner has the power to restrict registration in appropriate circumstances and to act quickly if unethical conduct is detected.

This government was elected on a platform of honesty and integrity. The Liberal–National government has made significant progress in restoring community confidence in the public sector and government decision-making processes. This proposed legislative reform recognises the need for clearer direction for and independent oversight of that part of the lobbying industry that is retained to influence government on behalf of third parties. It will establish a high standard of ethical practice within the industry and ensure the probity and accountability of interactions between government representatives and consultant lobbyists, in accordance with public expectations of transparency and integrity. I commend the bill to the house.

Debate adjourned, on motion by **Ms R. Saffioti**.