

LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL 2014

Second Reading

Resumed from 27 November 2014.

MR D.A. TEMPLEMAN (Mandurah) [3.07 pm]: I am pleased to stand as the lead speaker for the Local Government Legislation Amendment Bill 2014. In my preliminary remarks, I would like to acknowledge two former councillors in the Speaker's gallery today—Brenda Beacham and Mervyn Beacham. They are very well known local identities from the Peel region. They both served in local government. Brenda served only recently as a local government councillor for the Shire of Murray and Mr Mervyn Beacham was a councillor for the then Town of Mandurah, as it would have been in the late 1980s, not the City of Mandurah. However, if Mr Beacham was still there in 1990, he would have been a councillor for the town when it transitioned into a city. I would like to acknowledge them. In doing so, it is important to reflect on the introduction of this bill and the time it has taken to get this bill on for debate. As I said to the Minister for Local Government at the Local Government Managers Australia conference, I will be very cooperative in supporting this bill because it has a range of elements that I think are important for local government, particularly including regional local governments.

It is important, though, when I reflect on the service that Mr and Mrs Beacham have given, that I also reflect on the service of literally thousands of councillors over the years who have been elected and represented their communities throughout remote, regional and metropolitan areas of the state. There is no doubt that under the minister's stewardship, we probably have the most controversial period in local government that we have had for a very long time. As I have said in this place and at other public events on numerous occasions, the sad thing is that the approach by the government to local government reform, particularly treatment of local governments, has reached a very low ebb. Unfortunately, that means that there is a great deal of mistrust, not necessarily of the minister personally but of the Premier. The local government sector is consistently being lampooned or treated with disdain by the Premier. That is disappointing. Although there are examples of local governments not necessarily doing things that are perceived by local ratepayers and/or stakeholders as being the right thing, by all intents and purposes, it is true to say that we have been served very well by many local government councillors—elected members—over a number of years.

It is unfortunate when the Premier of the day attacks local government in the way that this Premier has over the last few years, because the stain of his disdain for the sector reflects on elected members. That is sad, because many people have served their communities and continue to serve their communities in their capacity as elected members with great diligence, expertise, passion and enthusiasm. We only need to look at the events that have occurred in the state when there is an emergency or a challenge to those communities. We need not look very far back than the fires in Esperance last week that caused the tragic loss of four lives. We had the Roleystone fires, the Dwellingup fires in the Shire of Murray in 2008 and the floods in Moora a number of years ago. Member for Moore, I think it was 10 years ago or more that those floods caused great challenges in Moora. In each of these examples of challenge and crisis, invariably, local government has responded magnificently. I can remember when Moora was flooded. The then shire president was very much seen as the leader for that community. Indeed, his community looked to him and his council for leadership, and it was exemplary. We can look back at the fires that I mentioned and remember the outstanding leadership of the former Mayor of Armadale, Linton Reynolds, during the Armadale-Roleystone fires a few years back. His leadership was outstanding. Whilst in this place, the Premier will make throwaway lines about councils being lousy financial operators, rates being too high and councils spending like drunken sailors, but I think he is being disingenuous to the sector. If anything, before the minister is no longer a minister by the next election, one of his key priorities should be to build the relationship again. I think it has reached a low ebb. I think even the minister would privately acknowledge that.

The legislation we have before us today contains some very important amendments to the Local Government Act and sensible proposals to address some of the issues and concerns that constrain local governments at this time. One of the elements within this bill seeks to improve the situation for the Local Government Standards Panel, which is a very interesting beast. I think the minister and I would probably agree that we need to review the standards panel process very closely. The system is cumbersome, it is not effective and it is not delivering in the way we hope it would be able to deliver. Unfortunately, whether or not we like it, there will always be complaints about elected members in local councils. We need a transparent, effective and efficient process to deal with those complaints. My understanding of the current standards panel process and the constraints on it is that even if a complaint is made and attempts are made to withdraw, that complaint still has to go through a process. One of the aspects of the proposal in this bill will allow a discretionary power to dismiss frivolous or vexatious complaints. As I have said—I raised this in the briefing we had some 10 months ago—we have this whole issue of how we ultimately determine whether a complaint is vexatious or frivolous. The minister would have received emails from some interesting people who very strongly believe that their argument, complaint or

concern is not just relevant but is indeed something that is serious to them. As we know, we meet different people in our time. The issue that some people have becomes almost all-consuming; it becomes the reason they wake up in the morning. They consider their concern not frivolous or vexatious at all, even if they have made the complaint numerous times. I am interested in the minister's response to how genuine complaints or concerns will not be simply batted away under the definition of being frivolous or vexatious.

This legislation allows for complaints made to the standards panel to be withdrawn, bringing to an end an investigation that may or may not have started. It makes sense that if someone seeks to withdraw a complaint or a complaint is sought to be withdrawn, that should essentially be the end of it. That is one of the aspects of this legislation. There are also some tidying up aspects to clarify matters related to elected members' fees and allowances. Because councillors are now remunerated much more highly than they ever were, there is some clarity in the legislation about the payment of fees and allowances to elected members. I know that some councils pay councillors quarterly and some councils pay the fees for councillors in various other ways. Provisions in this bill clarify that. There are also provisions in this legislation that are controversial in some respects, particularly to local government managers. The minister and I have been lobbied hard by Local Government Managers Australia, a very respectable association of respected people, about the termination payments for local government chief executives and other officers. This bill sets down a maximum of one year's remuneration entitlement for the termination of a chief executive officer. I know that LGMA argued for a greater consideration, but the opposition is comfortable with the proposal in this bill.

The other aspect, which is probably one of the key aspects in this bill, is the establishment of a regional subsidiaries model. This has been around for some time. I note that sitting on the notice paper still is the member for Moore's legislation, and I will be interested to listen to the member for Moore's contribution, which I am sure he will make in the second reading debate, because the legislation that the member for Moore reinstated on the notice paper about a month ago, from memory, was very much a piece of legislation from Hon Max Trenorden, the former member for Avon.

Mr R.S. Love: He was a member for Agricultural Region at that stage.

Mr D.A. TEMPLEMAN: The member is right; he was in the upper house. Hon Max Trenorden, a former member for Agricultural Region and former member for Avon, was the architect of the original legislation for the regional subsidiaries model. This model effectively establishes processes whereby local governments can cooperate together to form a subsidiary that can carry out various works that may be of importance in a regional context or in a neighbouring council context. We see in this bill the capacity for the establishment of a regional subsidiaries model. The Labor opposition supports this concept very strongly, and I know it is strongly supported by peak bodies, including the Western Australian Local Government Association, LGMA and many councils throughout WA, including a lot of councils in regional and remote Western Australia that want to establish entities that will allow them to bid for works required in their area. That is a good thing and it is a good model to have in place. We need to encourage local governments, particularly in regional and rural areas of Western Australia, to work together. Many of them do, and we should not dismiss the fact that many councils now in regional Western Australia work closely together, but they can still be very parochial. The member for Bunbury knows that very well in his Greater Bunbury collectives. They can become very parochial, and when an issue arises, sometimes councils retreat into their parochial trenches. We have seen that over a long period.

Even with the City of Mandurah and the Shire of Murray, we can look at history for an example. Many years before the City of Mandurah was proclaimed a roads board, it was indeed the minor cousin of the Shire of Murray. With Pinjarra as the town, the Shire of Murray was bigger than Mandurah and was the premier inland city within the Peel region. Back then it was not known as the Peel region but, of course, it was, and is, a significant inland town of Western Australia. I always used to say to the former shire president of the Shire of Murray, Noel Nancarrow, "Noel, the way things are growing in the region, Pinjarra will be the next inland city of Western Australia." It will! The shire might collectively get to the threshold population for a city before the town of Pinjarra, but looking at the growth in the Shire of Murray now and what is projected under the strategy in the "Perth and Peel@3.5million" document, basically there will be a major city between Mandurah and Pinjarra. If members believe the figures in that document and that it is viable environmentally, socially and in terms of infrastructure, a city of around 90 000 people is proposed between Mandurah and Pinjarra by 2030 plus.

The Shire of Murray has some conjecture about those figures, but we are certainly looking at tens of thousands of people in that area in the long term. If members look at the development of the Peel region and what has happened to the City of Mandurah, with a population of around 80 000, and the population of the Shire of Murray of between 15 000 and 16 000, with a huge growth in population projected over the next 20 to 30 years, they will see that the Peel region will experience a significant increase in population that will result in the Peel region rivalling the south west in numbers. The member for Bunbury and I have jostled over time

whenever there has been talk of the largest regional city outside the metropolitan area. I always remind the member for Bunbury that Mandurah is the largest regional city, and the member for Bunbury surreptitiously forgets that and claims it is Bunbury, which it may be in terms of actual legal entities.

Mr G.M. Castrilli: I will put to the member that this is not me, but some people might say that Mandurah is now part of the metropolitan area. I would not say that!

Mr D.A. TEMPLEMAN: Some people might say that. I know the member for Bunbury supports my strong regional identity, but that is an interesting aspect. I want to get back to the regional subsidiary model and the capacity, through this legislation, for local governments to work together to create subsidiaries and to do good things, such as good economic development, infrastructure works and those sorts of things. I would like the minister, perhaps when we get to consideration in detail or in the minister's second reading response, to give us a couple of examples in which implementing this will give greater opportunity for these subsidiaries to be established. As the minister knows, there are still some entities that are not necessarily regional subsidiaries but are regional cooperative models that already exist; they tend to be more of a policy and advocacy example. I would be interested in the minister giving a couple of examples of that and maybe, through his officers, some examples of local governments that have said to the minister that the reason they want and need regional subsidiaries is that they have an idea, a concept, a proposal or a project, and a regional subsidiaries model would allow them to do that, whereas at the moment they cannot do it because they are effectively constrained. If the minister could give an example of that, it would be good for the Parliament and for the record to be highlighted.

The minister gave his second reading speech on this bill before we saw the City of Perth legislation. One of the concepts that we debated in the City of Perth Bill, which also appears in this bill, relates to the Commissioner of Public Health, which we deleted and renamed in the Public Health Bill yesterday, so I assume we will tidy that up. I am interested in how the amendments in this bill are complemented and/or superseded by the Public Health Bill that we passed in the house yesterday and what that means for the City of Perth Bill. I understand that it would be a fairly simple name change as such, but I would like clarification of that as well.

Under this bill, the Department of Health, through the Executive Director of Public Health, will be given the power to make local laws over Kings Park, which we went through in great detail during debate on the City of Perth Bill only last week, Rottneest Island and class A reserves. I would be interested if the minister could give us some detail in his second reading response about those aspects of the class A reserves, Rottneest Island and Kings Park.

Another aspect of this bill relates to the amendments to the local law-making process. These amendments were made at the request of the Joint Standing Committee on Delegated Legislation. Of course, a number of local laws have come before the house in recent times; some were subject to disallowance motions simply because the local government did not follow the right process. My understanding is that the amendments will clarify the process for local governments so that, hopefully, we will not see examples, as we have seen recently, of local governments not following due process as per the Local Government Act in attempting to enact local laws. It is interesting to note that issues relating to the joint standing committee's role in assessing those local laws have been included in a provision in the bill.

As I said, there is strong support within the industry for the regional subsidiaries process, and that is why I will be interested in listening to the comments of the member for Moore. I assume that the National Party will vote for this bill.

Mr A.J. Simpson: I am assuming.

Mr D.A. TEMPLEMAN: Given that a similar bill specifically relating to regional subsidiaries is still on the notice paper under the name of the member for Moore, I will be interested to hear his comments on that issue.

My understanding is that there are four key subsections in proposed section 3.69 and that there is also a provision in this bill that will make consequential amendments to the act with regard to regional subsidiaries. We know that, under this legislation, two or more local governments can form a subsidiary body under which they are to perform a service or carry out an activity, and that that of course has to be approved by the minister of the day. The interesting question that I will probably ask in consideration in detail will mainly be about the sorts of activities that that regional subsidiary will deliver. My understanding is that it will not pertain to higher functioning responsibilities or roles. Again, in that respect, it would be good if the minister could provide examples. He could say that this town and this town have always wanted to get together and do X and then explain how that would happen and whether there will be proper checks and balances in place, particularly given that local governments will of course be potentially expending ratepayers' money in establishing regional subsidiaries, so we will need to ensure that there is absolute clarity and transparency over the spending of public dollars.

It is also my understanding that these regional subsidiaries will be able to apply for government funding and possibly tender for projects that might be relevant to the local area, including—the minister could indicate through nodding his head vigorously—smaller Main Roads projects and those sorts of minor or not-so-minor road projects.

Extract from Hansard

[ASSEMBLY — Wednesday, 25 November 2015]

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Mr David Templeman; Mr Shane Love; Mr Terry Waldron; Mr Tony Simpson

It would make sense if a regional subsidiary could tender for those works. I think that would be good because it would mean that local employment opportunities would be created for the local community. No-one in this place would not support anything that allowed local employment to be created and/or maintained and/or nurtured. My understanding from reading this bill is that the regional subsidiary will ultimately become a corporate body and will therefore have membership aspects, and there will be a process of membership and the appointment of members will be relevant to the establishment of the body corporate, if you like, and the process will be outlined in a charter. Again, I ask the minister whether he could give us an example of this concept of the charter.

I understand that the governing body of a regional subsidiary can include non-local government members, so there could be a mix of representation. That is a good thing, because local expertise could be utilised in the membership of the regional subsidiary. I am interested in the process whereby the minister signs off and ultimately gives permission for the establishment of a regional subsidiary and how he will ensure that all the checks and balances are in place and that there is a clear understanding of appointment procedures. I am interested in an explanation of how someone may find their way to becoming a member of a regional subsidiary. I assume—again, I expect that this would possibly be done through the Local Government Act, but I would like some clarification—that there would need to be protections for members of the regional subsidiary or the corporate body in terms of their obligations, particularly their pecuniary interests, because I can see that there will be potential pecuniary interest issues. How will those be dealt with in that entity so that it is nice and transparent? I do not think that issue is a deal-breaker, but when we are dealing with local ratepayers' money and/or grant moneys that are applied for and/or federal government funding that may be available, we need to make sure that those transparency aspects are well and truly in place.

I do not want to take up too much more time. This legislation is based upon sound principles. In a modern, twenty-first century Australia, we need to encourage local governments to work together and encourage local governments in regional areas to always look at opportunities that will create employment and will ultimately deliver as high quality an outcome as possible. We want to see regional subsidiaries that are thinking always about delivering a social outcome to the community through a project or activity, and obviously an employment outcome. I see regional subsidiaries as a real opportunity for local communities to gather together and capture grant money and/or resources they already have for genuine employment opportunities, and to assist local communities reach the goal of being sustainable. We should be encouraging that.

I will conclude there because, as I said to the minister at the Local Government Managers' Association conference, the opposition strongly supports this bill and I want to see it passed quickly. There is no need to hold up its passage. I will be interested in the comments of the member for Moore, and even the member for Bunbury if he is going to make a contribution. Obviously, it needs to go through the other place, but this is important legislation for the sector, and key stakeholders have been asking for it for a long time. The WA Labor opposition is very supportive of this legislation.

MR R.S. LOVE (Moore — Parliamentary Secretary) [3.41 pm]: I rise to speak on the Local Government Legislation Amendment Bill 2014. The purpose of this bill, as we have heard, is to provide for a number of improvements to the Local Government Act 1995, the most important of which is to enable local governments to form regional subsidiaries. The bill allows for two or more regional local governments to establish regional subsidiaries to undertake a number of services or activities. The regional subsidiaries model contained in the bill is very long overdue in Western Australia. This bill has been languishing on the notice paper since its introduction on 27 November last year. It had to await the passage of the City of Perth Bill through this house before it was debated. The City of Perth Bill made amendments to the Local Government Act about transparency measures that affect all local governments. Those measures were never debated widely in the community or with the sector. Their introduction in that bill at very late notice had no real justification, and in any event would have been much better dealt with in a general amendment bill such as the one before the house today. In my opinion, the City of Perth Bill is far less important to the local government sector than the legislation we are now debating.

The introduction of regional subsidiaries was not first envisaged in this term in this bill, but was first introduced by me as a private member's bill—the Local Government Amendment (Regional Subsidiaries) Bill 2014—on 11 September last year. That bill was reinstated to the notice paper on 24 September this year. I introduced that bill with the strong support of the National Party, which is firmly committed to voluntary reform of local government, and implacably opposed to any forced reform, such as that contained in the City of Perth Bill. As members can see from our actions in voting against the City of Perth Bill, we are not afraid to stand by our principles.

The regional subsidiaries model contained in the bill now before the house was based on the successful provision of regional subsidiaries in the equivalent South Australian legislation, the Local Government Act 1999. As members would be aware, the merits of the introduction of a regional subsidiaries model has been widely debated in the local government sector and follows the introduction of the Local Government Amendment

(Regional Subsidiaries) Bill 2010 by Hon Max Trenorden, MLC, on 25 November 2010. That bill was written following extensive consultation right across mainly regional areas of Western Australia and also in South Australia, with extensive discussion and investigations carried out by Hon Max Trenorden. The 2010 bill was reviewed by the Standing Committee on Legislation in the other place. The committee's report led to some changes that were introduced in the Local Government Amendment Bill (No. 2) 2012. Neither of those bills were ever passed; they both lapsed due to the 2013 election.

The Local Government Legislation Amendment Bill 2014 carries within it the concept of the regional subsidiaries model that was a feature of these earlier bills and the private member's bill I introduced in this term of government. This legislation will allow for two or more local governments to make arrangements under which they can jointly provide a service or carry on an activity. With the approval of the Minister for Local Government, they would form a subsidiary model, referred to as a regional subsidiary, to provide that service or carry out that activity. A regional subsidiary is a body corporate and comprises a governing body consisting of members selected in accordance with the charter. It is important that this governing body will be able to include expert members, or members from outside the local council, who can bring a level of expertise and relevant external experience to help those bodies corporate grow and develop and carry out their business. Local governments proposing to form a regional subsidiary will be required to prepare a charter that will deal with various matters, including those required by the regulations to be set forth, including such matters as addressing the process of selecting the members of the governing body and, if it has to happen, the eventual winding up of the subsidiary.

The regional subsidiaries model is an important tool to allow local governments to carry on as they are, maintaining their local footprint, identity and presence within the community and the region, but enable them to achieve a position of greater economic sustainability. The concept was strongly supported by the Western Australian Local Government Association, and had the strong support of the former president of WALGA, the Mayor of Joondalup. In discussions with him, he indicated he had a very clear idea that the concept could not just be about like local governments within a region, but also that entities such as the City of Joondalup could provide a range of services to many smaller local governments throughout Western Australia that lack some of the capacity to provide certain services economically. Together, they could form a regional subsidiary that would make local governments in those regions far more viable economically and far more capable of providing services, while at the same time enhancing the range of opportunities for staff and others at Joondalup.

I am also aware from discussions with local governments in my electorate and my zone of increasing concerns they have about the intentions of the Minister for Local Government and the government for the introduction of rate capping. As recently as last Friday and last Monday, I was discussing with the Avon–Midland Country Zone and the Northern Country Zone of WALGA the possibility of rate capping being introduced by the minister and the government. Indeed, I understand it is a matter of discussion at the state council of WALGA and the subject of an agenda item for that group as part of that discussion. Councils are very concerned about their long-term viability with the introduction of rate capping, because local governments, as we know, are facing a bit of a cost price squeeze due to the capping of their financial assistance grants, uncertainty around some of their long-term funding sources and the cessation of the country local government fund—all combining to concern them somewhat about their future. That means that measures such as these regional subsidiary models are very, very important in enabling greater efficiency.

I am informed by the minister that he is not seeking rate capping. I do not know whether that will or will not happen, but certainly it remains a topic of great concern to local governments in my electorate. There are 17 local governments in the electorate of Moore and they are all very concerned about that. It is also a concern for the Western Australian Local Government Association at the state council level. I am sure that I speak for the rest of the Nationals in saying that we are opposed to rate capping in any way and would not seek to introduce such measures, but we would like to see measures such as regional subsidiaries introduced to improve the efficiency of local government and allow more effective ways for local governments to conduct their business.

Mr R.F. Johnson: It makes a lot of sense.

Mr R.S. LOVE: Yes. I am aware that current multi-local government arrangements such as regional organisations of councils already exist. They provide some degree of flexibility and have developed a number of quite large businesses, some with various levels of success. The introduction of regional subsidiaries is just another tool that will allow more flexibility for local governments in pooling their resources and sharing their expertise. As I said, it is not just within neighbouring districts, but perhaps with councils anywhere in the state that can establish a synergy or a linkage that might be able to enhance the business of both local governments. In country areas a great deal of importance is placed on local governments. They are a key source of identity for many communities and a key voice in empowering local communities to deal with government and to help to club together the capacity of the local area to provide social capital for the region.

I would like to reiterate that I and members of the National Party are implacably opposed to forced reforms such as that contained in the City of Perth Bill, and measures such as rate capping, which have led to disastrous results in states such as New South Wales. We are also completely opposed to forced amalgamations. We are, however, very supportive of voluntary reform measures and of the regional subsidiaries model as introduced in my private member's bill and as carried forward in this Local Government Legislation Amendment Bill 2014 before us today. Those measures are the way in which we can ensure that local governments can build their economic sustainability and provide for their residents' concerns about their ongoing identity and their ability to have a say about their own future at a local level.

A number of other issues are in the bill such as matters to do with the Local Government Standards Panel. I will follow those matters through the consideration in detail stage, if they arise, but, all in all, I am very pleased to see regional subsidiaries being put forward by the government. I hope the bill has a speedy passage through Parliament and I look forward to the rest of the debate.

MR T.K. WALDRON (Wagin) [3:53 pm]: I want to make a short contribution and support my colleague the member for Moore and what he has said. I reiterate that the National Party, through my former colleague Hon Max Trenorden and the member for Moore, has previously put forward legislation regarding regional subsidiaries. I congratulate the government on bringing this Local Government Legislation Amendment Bill 2014 forward because I think it is important legislation, particularly for local governments in country WA. I also want to put on the record that I support voluntary amalgamations, and I will talk a little about that in a minute, but I certainly do not support forced amalgamations. We have been very firm on that over a long time.

Local government in small country areas is really important; it gives towns their identity. They have great local knowledge of what is needed in their local communities; therefore, it is important that this bill will allow those local governments to remain pretty much as they are. I have no doubt that it will make them more sustainable as we go into the future. I read the minister's second reading speech earlier, and I agree that the legislation will give our local governments a great deal more flexibility. Importantly, it will allow them to share services. In the area I represent, there are 23 local governments. I point out that since I have been in this place, we have seen two voluntary amalgamations, which have been good. The shires of Tambellup and Broomehill amalgamated some time ago at their own wishes and that has worked out really well because there was a want to do it and there were good reasons for those two shires to do that. That is why I support voluntary amalgamations. Just recently, the Town of Narrogin and the Shire of Narrogin amalgamated. That is commonsense to me. It was the last of our doughnut councils in Western Australia.

We have talked about this bill allowing shared services et cetera. A lot of that already takes place so our local governments are ahead of the game. They share lots of employees such as health surveyors and engineers. At times, they have shared chief executive officers, albeit for only a period, but it worked out quite well. They are also banding together. In my area, about four groups of up to seven shires have come together to build independent living units and aged-care units to keep people in our towns. They have been able to do that well, utilising funding from royalties for regions. Instead of each town building a couple here and a couple there, they undertake a program over four to six years. They get more money and cut the cost, and they are building some absolutely fantastic units out there. The subsidiary model will allow that to happen on more occasions and that is why I support it.

That is all I want to say on the bill. I wanted to put that on the record because I think this will be welcomed by people out there. It is easy to say that times move on. I have been involved in sport and we see football clubs amalgamate, but I think councils are different. They are really important to the identity of our whole region and they are somewhere to go. When there are bushfires—we have just seen some terrible bushfires—the local governments are the centre of the community. They coordinate assistance around any of those sorts of disasters. If we spread them too far, we will not get the same services. It is as simple as that. I congratulate the minister on bringing this legislation forward and I support the bill.

MR A.J. SIMPSON (Darling Range — Minister for Local Government) [3:57 pm] — in reply: I thank members for their support for this Local Government Legislation Amendment Bill 2014. It is timely to get it into the Parliament, and I thank the opposition spokesman for local government and my National colleagues for their support of this legislation. The Nationals were very strong in raising the original subsidiary model. As the member for Mandurah pointed out, as part of the reform process, a former member of this place and a member for Agricultural Region, Hon Max Trenorden, introduced the regional subsidiary model.

This bill contains a lot of amendments to the Local Government Act. The subsidiary model is one part of it, but we are looking at a number of areas, and the Local Government Standards Panel is among those. As members who have ever dealt with the standards panel will tell us, involvement with the standards panel is quite a convoluted process. I want to put on the record a bit of information on how it deals with a complaint against a councillor or a councillor versus another councillor. Right now we are going through a review of the code of

conduct within local government, which starts this process. Councils operate under a code of conduct. If a councillor feels that another councillor is not operating under that code of conduct, they can make a complaint to the standards panel and the standards panel can deal with their complaint. We have been doing a lot of work on this and are now able to release the final findings on the code of conduct. I acknowledge the great work of the sector, and one of my staff has done some amazing work in bringing this together and streamlining it.

The provision in the bill refers to the other end of the procedure when the standards panel reviews a complaint. There have been a lot of issues, as the member for Mandurah indicated, around vexatious types of complaints. Once the standards panel receives a complaint about a situation that has evolved, there is a quite simple form to fill in with a description of the complaint. A person writes what they think happened and the panel has to deal with it. They go through the process of trying to gather the evidence to work out whether an offence has occurred and what should happen after that. At the same time, a person can make another complaint along similar lines with the same council. We have to deal with that as well. We cannot say, “Hang on, we have three complaints about the same issue; we will put it together.” We are trying to go back to the code of conduct, which is where it all started, to ensure that we have that part right before we go any further. This amendment bill will help streamline that a bit. We are very conscious that there is an issue to do with the whole code of conduct and the Local Government Standards Panel. It is taking way too long to resolve a number of issues. A lot of work has been done. This is one part of the jigsaw puzzle to do with the standards panel. It is really important to resolve the review of the code of conduct.

The Local Government Legislation Amendment Bill 2014 removes the duplication of electoral affairs provided in the Local Government Act. The current act states that a person cannot make defamatory comments about someone during a local government election cycle. Time has moved on since 1995, and the Defamation Act 2005 now takes care of that. This amendment bill tidies up the Local Government Act 1995 by removing the defamatory part of the electoral offence, which has already been picked up in the Defamation Act 2005.

A key issue was chief executive payouts. A lot of work has been done around pay. Under the Salaries and Allowances Tribunal, CEOs are now paid according to a bandwidth, depending on the size of the local government. Some framework has been put in around how much CEOs are paid. There are variations on how a contract is terminated—whether the contract is paid out in full or whether time left on the contract is paid out. It has been fixed up to bring it more in line with the modern world. A comparable CEO whose employment is terminated in the private sector receives a 12-month payout, so this provision will bring it in line to try to tighten it up.

From 1 July 2013, allowances and fees were taken over by the Salaries and Allowances Tribunal to pay councillors. The bill will allow the Salaries and Allowances Tribunal to determine the payments for local government-elected members. Very similar to the Acting Speaker (Mr I.M. Britza) and I, their pay will be reviewed on an annual basis. They will put in their own submissions to make sure they comply with that.

There have been issues around regional subsidiaries’ charters. To clarify, it was quietly spoken about trying to bring it all together: two or more local governments can form a regional subsidiary group. That can deal with a raft of issues to do with record keeping, payrolls, sharing staff and so forth. Once established, it is very clear that the subsidiary’s charter must contain information about powers and duties and how members of the governing body are selected and appointed. Obviously, the local governments that are part of that regional subsidiary will decide who will be their representative. More importantly, too, they will decide what qualification members of the governing body must have. There might be a need for legal advice. They will decide how the regional subsidiary will be administered, including membership. That is to do with fees and charges. The charter has to state which of the local governments have come together. Two or more councils will make up the charter. A body will be set up to report back to each of the councils on what has been achieved in terms of a marketing strategy or applying for money to build large infrastructure for the region. It is all part of the charter, as well as providing for financial management, planning, auditing and how the charter can be amended.

Once that has all been sorted out through discussion and there is a clear direction about what the regional subsidiary will do—it could be lining up four libraries together in a regional area to employ one person who can manage, market and sell libraries to the community or utilise some staffing to get better resources on the ground—all of that will go into the charter. The charter has to come back to the minister of the day for approval and sign-off so that there is a bit of oversight. The charter that is established under a regional subsidiary cannot borrow money in its own entity. If the subsidiary wants to borrow money for a project, it will have to go back to individual councils. It is a standard process for local councils. To borrow money, they have to go through that process. The subsidiary group cannot borrow money, only individual councils can, and they take individual responsibility for financial management in that process.

An area in which the regional subsidiary could work, to bring it into line, includes childcare centres. A group of councils within reasonable proximity to each other could pool their money for a regional subsidiary to set up

Extract from Hansard

[ASSEMBLY — Wednesday, 25 November 2015]

p8931b-8942a

Mr David Templeman; Mr Shane Love; Mr Terry Waldron; Mr Tony Simpson

a childcare centre and/or employ a childcare worker. That could be done through the regional subsidiary group with each council putting money into the subsidiary to set up child care for a regional area and each council would reap the benefits for its community. I recently visited a small childcare centre in Three Springs that is run by the shire and the community. It is used by neighbouring towns that do not have a childcare centre. People working in an office from nine to five, be it at the shire or at an office in town, could utilise that childcare service. That could be taken to the next level through the regional subsidiary group.

In the goldfields, there was talk recently about recordkeeping management and the point where records are kept. Shires could look at pooling their money for a record management plan. That is an area that they have been looking at. Every time I travel around regional Western Australia, shires are very keen to tell me how they will benefit from regional subsidiaries and, more importantly, leverage off their neighbour. Consequently, there is strength in numbers. The member for Mandurah touched on my visit to Bruce Rock. The Shire of Bruce Rock runs its own concrete batching plant. It produces concrete products, from culverts to kerbing to concrete crossovers. That could grow quite easily. It could be linked to a regional project. The Shire of Bruce Rock could provide the concrete products needed for a Main Roads WA project to upgrade a road. Two or three local governments with a major road linking them to a regional centre could get together to upgrade the road and work together as a collective group because it benefits the whole region. It is a great opportunity.

In metropolitan Perth, there are currently five regional councils. They mainly deal with waste and other areas. To set up a regional council, a new local government has to be formed. In the Acting Speaker's electorate of Morley, the council is involved in what is called the Eastern Metropolitan Regional Council. It formed a completely new local government called the EMRC. The body is made up of six local governments in that area. The EMRC has to report just like every other local government. The actual reporting process is quite long and cumbersome. The audit reports, annual reports and everything else that goes on with local government has to be duplicated in each one of those five regional councils in the metropolitan area. It is a vehicle to set up a regional council—the EMRC, besides waste, has ventured into a lot of other projects throughout the east metropolitan region; it is very good at lobbying for federal and state money for major projects—but the encumbrance is that it has to operate like a local government. Councillors are elected from six council members and a CEO is employed. Administration, record keeping and reporting have to happen exactly as they happen in any other local government. It would be less cumbersome to apply the subsidiary model, whereby the reporting process goes back to the local governments for them to report. The set-up is quite simple; for example, waste could be quite easily taken care of through the charter process. It is a great idea to put together. I acknowledge the support from both sides of the house. The National Party has been a very strong supporter of the regional subsidiary model.

I want to touch on the member for Moore's comments to do with rate capping. I have been very strong in my words with the sector. During Local Government Week in August, I clearly stated on the record that I am not for rate capping. I will admit, and I did say at the meeting, that our process for rate increases is getting out of hand; the increases have been quite high. As a side issue, I will say that I do know why, and that we have to go back to 2009 when the former minister brought in integrated planning reporting. That required all local governments to look at all their assets—each road, footpath, bridge, playground equipment, hall and swimming pool. For instance, a swimming pool is an asset and eventually has to be replaced. The integrated planning report has shown local governments in the big picture where they have a big void in knowing where they need to put their money. Local governments have therefore been looking at their asset base and the amount of cash they have in the bank to replace their assets in future. That is one of the key issues that have driven the rate increases. It is a case of what I call "catch-up", and I think the catch-up is going well, but we have been very strong in talking with local governments on accountability and transparency. It is one thing that my department does to make sure that local governments are complying with the Local Government Act, and also to make sure we can get some transparency on where that money is going. Every local government goes through a process of adopting a budget. They are also required under the act to present a fully audited report at an annual electors' meeting. That is similar to a shareholders' meeting. They invite the ratepayers—the shareholders—and produce to them the audited books for the year. The report contains a lot of information to do with the council's debt ratios, the ability to pay creditors and receive debtor payments, and how the council is travelling as a local government. That is one area on which local governments are working very closely with the department to make sure that they can explain to ratepayers where the money is going and how it is being spent.

On Monday night I caught up with the Pilbara Regional Council, and it was great to see some great work that the Town of Port Hedland is doing. At the monthly ordinary council meeting, each council draws up what I call its financial snapshot, which shows in a three-page summary how much money is in the bank, where all the loans are situated and how they are travelling in paying them out. There is full transparency to ratepayers in a three or four-page summary in a nice clear glossy brochure. I printed off a copy to have a read myself. It has clear graphics that are very easy to read. This one I have with me tells me that the cash in the bank totals \$94.5 million. A little dot point indicates that it does not include some other things that are happening in the area,

but it also shows a ratio indicator and refers to the loans and debt that are tracking at the moment. It states the current loans outstanding and when they are expected to be paid off. I think that is a really good thing to do for ratepayers. This is one of the key areas we need to go to to make sure we can get some transparency and accountability in local governments.

I have said many times that the Local Government Act 1995 was written and has been amended at times when we did not have the internet. We had a discussion in this place during debate on the City of Perth Bill recently about changing the annual return to take out the provisions on travel and gifts. Once that bill is passed in the upper house and is gazetted, all local governments in Western Australia will change the way they deal with gifts and travel. It is pretty straightforward. If any member of local government receives a gift or travel, they will have 10 days to let the CEO know, and he will register the information—it is a bit like the system for members of Parliament—and put it online for transparency. It is a bit like you, Mr Acting Speaker, and I coming into this place and tabling our imprest report on a quarterly basis; it is all up-front. I think it is something about which we need to start targeting local governments.

To respond to the member for Moore's comments on rate capping, from my perspective the government has no intention whatsoever to introduce rate capping. I think what I need to do is work closely with the sector to find a better way to get transparency. Local governments struggle to sell themselves. They provide so many services into the sector that they need to tell the community what they are doing and where their ratepayer money is going and get some transparency around that. I think the rate increase issue will not be the top issue; it will be about where the money is being spent, and that is about engaging.

In coming back to what the former minister did in bringing in integrated planning reporting with the 10-year forward financial plan, community plans are one of the key areas for councils to go out and consult the community. We have done all that work in the reporting part. We will now turn over a new page and get into transparency and accountability to make budgets in annual reports easier to understand for ratepayers so that they can see quite clearly where their rate money is going. That is something we will be addressing with the sector as a whole in the coming year.

I understand that the opposition wants to go to the consideration in detail stage on the bill and have a discussion. I will need to amend some amendments standing in my name on the notice paper. It has been a little while since we started debate on this bill and we have introduced a couple of other bills as well as the City of Perth Bill. I look forward to getting into consideration in detail to finalise these details.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Section 1.4 amended —

Mr D.A. TEMPLEMAN: I want to make sure that Parliament is very clear about this clause, which is essentially a definition. It defines a regional local government as it is defined in section 3.61 of the Local Government Act 1995. There has been some clarification. Does it refer to a regional local government that forms or seeks to form a subsidiary? Is it the case that it does not matter where a local government is in Western Australia, all local governments are capable of forming a regional subsidiary under the definitions?

Mr A.J. SIMPSON: Yes, it applies to every one of the 138 local governments in Western Australia, including also the five regional councils in the metropolitan area, as they are local governments under the act. They are all entitled to form some sort of subsidiary group.

Clause put and passed.

Clause 5: Section 3.12 amended —

Mr D.A. TEMPLEMAN: This clause inserts proposed subsection (2A) in section 3.12 of the Local Government Act; it reads —

... a failure to follow the procedure described in this section does not invalidate a local law ...

If I am correct, this is one of the amendments that was recommended or highlighted by the —

Mr A.J. Simpson: By the standards panel.

Mr D.A. TEMPLEMAN: No, not the standards panel.

Mr A.J. Simpson: By the joint standing committee.

Mr D.A. TEMPLEMAN: Yes, it was by the Joint Standing Committee on Delegated Legislation. This effectively puts in place that a local law will not be invalidated if there has been substantial compliance with the process. Without being too pedantic, does “substantial” refer to over 50 per cent compliance, over 75 per cent compliance or over 90 per cent compliance? How would the minister determine that there has been substantial compliance with the procedure?

Mr A.J. SIMPSON: This clause is a recommendation from the Joint Standing Committee on Delegated Legislation. It is about our local laws that have been disallowed by that committee. There is a process in place to take a local law towards gazettal. One of the key issues is that sometimes a local government has ticked all the boxes but has not gone through the right process and, for whatever reason, the local law has been rejected. What we are trying to do here is remedy this. I will give the members some examples of what we are trying to do. The committee has stated that, in some cases, it is clear that no harm or adverse impact is caused if the timing of the procedures is set out in the act and is complied with within a certain number of days. For example, in the case of the Town of Kwinana Extractive Industries Local Law 2011, the Joint Standing Committee on Delegated Legislation considered it had no choice but to recommend disallowing the law, even though the procedure set out in the act had substantially been complied with and no harm was caused by the local government error. The act requires copies of the proposed local laws and a copy of the public notice to be submitted to the minister as soon as a statewide public notice is given. In this case, the statewide public notice was made after the local law was submitted to the minister in six days.

One of the key issues we are dealing with, which I pushed hard for at last year’s Local Government Week, is the equalisation of the local laws. That was one of the key issues coming across my desk. I noticed when I was at the Kimberley zone meeting in May this year, the Kimberly zone got together to adopt three or four local laws that were taken on board and changed them all at the same time. The Kimberley zone gazetted through delegated legislation local laws that affected them, and each local government could adopt it. By using that as a template, it was easy for the local governments to follow on to the next one. This recommendation from that committee quite clearly recommends that we change the act so that we can see the intent. The local government must tick all the boxes that it has to do regarding going through the process of advertising and getting advice. The act is quite clear that it has to be done in a specific order and then the Joint Standing Committee on Delegated Legislation will be left with no option but to disallow it. We are changing this so that if it gets to the right point and all the boxes are ticked, that will allow the process to flow through to the delegated legislation committee.

Clause put and passed.

Clauses 6 to 8 put and passed.

Clause 9: Sections 3.69 to 3.72 inserted —

Mr D.A. TEMPLEMAN: This clause essentially determines the scope of a regional subsidiary. Proposed section 3.69(1) states that a regional subsidiary is effectively an entity that is two or more local governments. It is interesting that it is not unforeseeable that two councils, which may not necessarily share a boundary, may still seek to create a regional subsidiary. I am aware of a number of metropolitan councils that provide, I think, information technology services for some of the smaller regional councils. Indeed, some councils can seek to provide services because of their expertise in particular areas. I assume—the minister and the member for Bunbury nodded vigorously—that this is very possible under the regional subsidiary model. Two or more councils that do not necessarily share a common boundary can seek to create a regional subsidiary. The minister might want to give us a very quick example of whether that is the case. Proposed section 3.69(2) states that the minister’s responsibility, once the formation of a regional subsidiary is approved, is to declare its establishment in the *Government Gazette*, and record in the notice the date and the name of the regional subsidiary. My assumption about the date is that the regional subsidiary comes into being from a date and that that will be published in the *Government Gazette*. Under proposed section 3.70, “Regional subsidiaries to have charter”, there are provisions relating to the winding up of a regional subsidiary. A subsidiary may be created under the charter only for a specific purpose, which is then no longer required. If and when a subsidiary is wound up, is there a compulsion to print in the *Government Gazette*, under the minister’s signature, that a subsidiary has been wound up? In other words, if councils set up subsidiary A on a date and then two or three years down the track the decision was made to wind it up, is an official publication required stating that the regional subsidiary no longer exists after a certain date?

Mr A.J. SIMPSON: In a classic example, yes, a regional subsidiary could operate outside of its neighbours—it can go further afield. Currently, the City of Nedlands is working with some wheatbelt councils on providing an IT platform and backup support. Also, the City of Canning has been very successful in providing accounting services to the Shire of Ngaanyatjarraku lands on the other side of Laverton. It can look at forming a regional subsidiary to deliver those services in the future. At the moment, it is just what is called a service agreement. Proposed section 3.69(2) provides that the minister shall approve the formation of a regional subsidiary. The

minister must, by notice in the *Government Gazette*, declare the date that the regional subsidiary is established and its name. This is the same procedure as for the creation of a regional local government. Yes, it will come into place after it is published in the *Government Gazette*; we have set that up.

To answer the next question about winding up the regional subsidiary, if a regional subsidiary was formed to pay for and build a road from A to B within a year, at the end of the year, the local governments would come together and, in a process that is similar to forming the charter, could undo the charter. As the minister, I sign off on the charter. Similarly, if the regional subsidiary writes to me informing me that the charter has come to the end of its useful life and wishes to wind it up, it is a straightforward regulation to do that, as long as the books have been cleared because, obviously, it has to report back. A key point to keep in mind is that a regional subsidiary route cannot borrow any money; it can get money only from the source or the members of the council around the table that form the regional subsidiary group. In this case, say there are four local governments; they would move the motion that they are happy to wind up that subsidiary group at its completion. Each local government would move a motion and that would resolve to disband the subsidiary group. It can then keep moving on from there. An end date is up to the local governments individually. They can make them through regulations, but each council has to decide on that process.

Mr D.A. TEMPLEMAN: Is there any compulsion to publish when a subsidiary group ends?

Mr A.J. SIMPSON: We could set that in the regulations around the subsidiary.

Mr D.A. Templeman: I think that would be a good idea.

Mr A.J. SIMPSON: Yes. There will be a process in place to state at the end how to wind up a subsidiary group.

Mr D.A. TEMPLEMAN: Further to clause 9, proposed section 3.69(4) allows members who are not council members or employees as members on the corporate body. Is there a requirement for a minimum number of members and of elected member representation?

Mr A.J. Simpson: No.

Mr D.A. TEMPLEMAN: Essentially, could there be no elected members on a regional subsidiary?

Mr A.J. Simpson: Yes.

Mr D.A. TEMPLEMAN: What is the thinking behind that in terms of representation?

Mr A.J. SIMPSON: This is very interesting. The idea of the regional subsidiary group is for a local government to form an alliance with its neighbour to deliver some services. Depending on the services that are being delivered to the region—it could be some legal advice—they combine and get a saving. Because they are both spending X amount of dollars, they get together and form a regional subsidiary to receive legal advice. Obviously, it is up to the charter to say that none of the councillors have any legal experience, so it will get some legal advice and gain membership of a legal fraternity. Someone in the area who has some legal experience can put that together. The membership of that is up to the charter and also whether, in the case of two or three local governments forming an alliance, it wishes to pay its councillors a sitting fee. It does not specify that they have to be councillors; they can bring in someone with some expertise, such as an engineer, to help with building issues.

Debate adjourned, pursuant to standing orders.