FINANCIAL LEGISLATION AMENDMENT BILL 2021

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Stephen Dawson (Minister for Mental Health)**, read a first time.

Second Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health) [8.15 pm]: I move —

> That the bill be now read a second time.

The Financial Legislation Amendment Bill 2020 was introduced into the Legislative Council on 19 March 2020. Unfortunately, due to urgent legislation arising from the COVID-19 pandemic, as well as the government's significant legislative agenda, the bill lapsed upon the dissolution of the fortieth Parliament. The 2021 bill is in the same form as the previous bill that lapsed. It arises from the recommendations of two statutory reviews of the Financial Management Act 2006 undertaken in 2012 and 2017, in accordance with section 85 of the Financial Management Act.

The amendments proposed in the bill will support key reforms that will deliver a more effective and robust financial management framework. This will continue this government's strong focus on sound financial management and accountability. In broad terms, the amendments in the bill fall into two themes: improving governance and accountability, and improving efficiency and effectiveness. Importantly, the proposed amendments also address the findings and recommendations of recent reviews, including the service priority review and the special inquiry into government programs and projects. Although the majority of the amendments proposed in the bill are to the Financial Management Act, a small number of amendments are also proposed for the Loan Act 2017 and the Government Financial Responsibility Act 2000.

The bill will strengthen budget management practices by explicitly requiring an agency's accountable authority to operate within its approved expense limit as specified in the agency's resource agreement. Embedding this requirement in the FMA will enhance fiscal responsibility and accountability, and is crucial in ensuring that key performance measures are meaningful and observed.

The bill will also require agencies to formally notify their minister in the event they may be experiencing financial difficulty. The responsible minister is then required to confer with the Treasurer on a course of action to enable the agency to meet its financial obligations when they are due. Currently, this requirement is only included in a limited number of statutory authorities' enabling legislation, primarily those with a commercial focus. Although the FMA provides a strong framework of control over the authorisation and payment of money, it currently lacks an explicit constraint on agencies entering into an arrangement that effectively commits the state to a financial obligation and thereby potentially pre-empting the government's discretion in the matter.

To strengthen governance, the bill will require accountable authorities to ensure that agencies comply with state government policies on financial management. Importantly, agencies will be required to have policies and procedures on how officers of an agency may exercise the authority to enter into a financial obligation on behalf of the agency or the state. Furthermore, sound budgetary control will be reinforced through the introduction of a legislative requirement for agencies to establish a comprehensive framework of delegations and authorisations, including maintaining proper records and documentation. This is essential for enforcing stronger financial accountability controls across the public sector. It builds on the measures already implemented by this government to reinforce the independence of agencies' internal audit functions and the segregation of duties in the authorisation of payments. The bill also introduces amendments that enhance the efficiency and effectiveness of public sector financial management.

New and supplementary expenditures that have been incurred during the course of the year are currently required to be provided for in an appropriation act in the next or later financial year, in accordance with section 27 of the FMA. However, in recent years many of these supplementary appropriation bills have not passed the Parliament and lapsed, largely due to more urgent and competing priorities. Therefore, this bill proposes to deal with these expenditures as a standing appropriation and provide accountability to the Parliament by reporting these expenditures in the *Annual report on state finances*. Under the Government Financial Responsibility Act 2000, the *Annual report on state finances* must be tabled in Parliament within 90 days of the end of the financial year.

The bill also proposes amendments to provide for the automatic supply of moneys in an election year, such as this one, where the budget is typically handed down at a later date. If supply has not been granted by Parliament at the beginning of a financial year, the bill's amendments will permit the Treasurer to charge to the consolidated account up to 35 per cent of the total amount appropriated in the previous year, in order to meet payments for up to four months—up from two months currently—of the budget year. These amendments will allow adequate time for Parliament to examine the state's finances in an election year and to fund the core activities of government without resorting to a supply act for supply beyond the first two months of the current year.

The bill also provides a solution for the unintended build-up of agency holding account balances that comprise non-cash components of an agency's appropriation, such as depreciation and increases in leave liabilities. It was intended that over time, the holding account would fund relevant agency commitments. For example, holding account balances built up through depreciation would fund like-for-like asset replacements. However, these balances, which impact the balance sheet, have been growing unabated, for reasons including the non-replacement of assets, due to, for example, changing technology, other funding options for capital and the overestimation of depreciation expenses. The proposed amendments will resolve this issue by permitting the Treasurer to direct all or part of agencies' non-cash balances standing to the credit of the holding account to the consolidated account, when these balances have built up and are not likely to be utilised.

The bill also addresses an existing anomaly in the Loan Act 2017 that does not allow for the temporary repayment and redraw of borrowings without impacting the total authorised borrowing limit. This means that short-term cash surpluses in the public bank account have generally been applied to investments rather than debt repayment, which is not optimal, given that interest earned on investments is typically less than the interest paid on borrowings. Proposed amendments to the Loan Act 2017 will resolve this legislative deficiency so that the temporary repayment and redraw of borrowings will not impact the authorised limit and allow better cash flow and liquidity management practices.

As part of this government's commitment to reducing red tape, the Governor's role in the approval of write-offs of public property and revenue and other debts due to a statutory authority or the state, as well as act-of-grace payments, has been replaced with the Treasurer. Although this will reduce the administrative burden on the Governor, it will not diminish accountability, as agencies are required to not only maintain registers for write-offs and act-of-grace payments, but also disclose this information in their annual reports under the *Treasurer's instructions*. The overarching objective of the proposed recommendations is to "enable the public sector to do its job better", consistent with the service priority review. I note that these amendments are consistent with the recommendations made by the Joint Standing Committee on Audit. The bill includes amendments to reduce the financial reporting compliance burden for agencies by allowing the Treasurer to exempt agencies from reporting key performance indicators in their annual reports when there is adequate justification. Key performance indicators are a significant component of the Western Australian outcome-based management framework, but compliance does not always mean responsible financial management, particularly when KPIs are not meaningful in helping to assess an agency's performance. Various reviews have recommended modifying the existing performance reporting regime to avoid key performance indicators for policy, planning and research functions, recognising that the value of these functions cannot be effectively assessed in this manner.

Other minor amendments to the Financial Management Act in the bill include: providing clarity to agencies on the requirements of resource agreements, and the operation and approval process of the annual estimates; broadening the definition of "relevant commitment" to provide the government with greater flexibility to respond to changing circumstances; and extending the statutory periodic review of the Financial Management Act from five to 10 years, reflecting the ongoing need for the act and the significant workload in undertaking the review. I note that this amendment will not preclude any other legislative amendment to be made in the interim.

Western Australia already has a good financial management framework, but we can and should seek to continually improve it. The Financial Legislation Amendment Bill 2021 will do this and will build on the McGowan government's commitment to strong financial management and accountability.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper 294.]

Debate adjourned, pursuant to standing orders.